A

GUIDE

FOR

CONSTABLES,

Churchwardens, Overſeers of the Poor, Surveyors of the High-ways, Treaſurers of the County-Stock, Maſters of the Houſe of Correction, Bayliffs of Mannors, Toll-takers in Fairs, &c.

A

TREATISE

Briefly ſhewing

The Extent and Latitude of the ſeveral Offices, with the Power of the Officers therein, both by Common Law and Statute, according to the ſeveral Additions and Alterations of the Law.

The Sixth Edition Enlarged.

Collected by *Geo. Meriton*, Gent.

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3/27/1930

To all Constables, Tythingmen, Head-borroughs, Bursholders, &c.

SIRS,

HAving many times considered of the large Extent of the Constables Office, and how little skill or knowledg many of you have, who are often called to take upon you the same Office, and also how few Authors there be who have writ on this Subject, Mr. Lambert, *Mr.* Wingate, *and Mr.* Sheppard *being the Chief, whose Rules at this day are very unsafe for the Constables to square their Actions by: for Mr.* Lambert's *Book being a Discourse principally of the Common Law Cases, is now much altered by Statute since, and that Book of the Office of a Constable Fathered upon Mr.* Wingate, *I am verily perswaded was none of his Work; for*

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there are ſome unwarrantable Authorities and groſs Errors in it, which could not have ſlipped his ingenious Pen if the Work had been his; and for Mr. Sheppard's *Book, it is ſtuft full of Acts and Ordinances of that Convention at* Weſtminſter *(which in the late times of Uſurpation and Rebellion was owned for a Parliament) which Ordinances are now of no force; Therefore none of theſe being ſafe and warrantable Rules for the Conſtables to walk by, but blind Guides to lead them into the by-paths and crooked Meanders of many Errors; I thought thereupon that ſome little Treatiſe of this Subject might not only prove very uſeful, but alſo very beneficial for the generality of People of this Kingdom; which conſideration hath occaſioned me to publiſh this ſmall unpoliſhed Epitome; and though I know the Book will fall under many hard Cenſures of thoſe who are far better able to undertake*

the

the Work, yet I hope, Dear Friends, my willingneſs to contribute anything to your Service, though but a Mite, doth claim your favourable Acceptance of my pains; Remembring the old ſaying ------ eſt voluiſſe ſatis; *and there is nothing of ſo little regard, but hath ſomething of worth in it, and I deſpair not of ſome profit hence to you for whom it is intended, and for whoſe eaſe, ſatisfaction and direction it was collected and publiſhed by him, kind Friends, whoſe ambition and deſire is, and ſhall be*

Red-Hall, Feb. 25. 1668. Yours ready to ſerve, in what he may,

George Meriton.

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A GUIDE FOR CONSTABLES, &c.

CHAP. I.

Of the Derivation of the word Conſtable, *how many ſorts of Conſtables, the Antiquity of the Office, the ſeveral Appellations of this Officer in ſeveral places, who ought to be choſen to the ſaid Office, and how and where to be ſworn, with the form of the Conſtables Oath.*

THE word *Conſtable* is derived or compounded of two old *Saxon* words, Cuninge, or Kininge, which ſignifieth *King*, and Stable ſignifying *Stability*, ſhewing that theſe ancient Officers were repu-

ted to be as the ſtability or ſtay of the King and Kingdom: *Co. 4. Part. Inſt. fol. 123. Lamb. Office of Conſt. 5. & Dalt. J. P. c. 15. fol. 46.*

There are only two ſorts of Conſtables, of whoſe Office this Treatiſe maketh particu'ar mention, and that is High Conſtables of Hundreds, and Petty Conſtables in Towns and Pariſhes.

Now by the opinion of ſome men, theſe High Conſtables were firſt ordained to be choſen by the Statute of *Winchester*, and they were to make view of Armour twice every year, and to preſent before the Juſtices aſſigned defaults of Armour, Watches, Highways, Hue and Cry; and alſo ſuch as lodged Strangers for whom they would not anſwer. *Lamb. 5. Raſtall 379. C. D. 13 E. 1. c. 6. Dalton's J. P. c. 16. fol. 46.*

And that the Petty Conſtables in Towns and Pariſhes, were after deviſed for the aid of the High Conſtables of Hundreds, about the beginning of the Reign of King *Edward* the Third. *Lamb. Duty Conſt. pag. 9.*

But others are of opinion, that the High

High Conſtables were Conſervators of the Peace within their ſeveral Hundreds and Limits, by the ancient Common Law. *Crompt. 6. & 222. 12 H. 7. fol.* 18.

And that whereas the Sheriffs of Counties at the firſt had the Government of their Counties committed to them, that afterwards by reaſon of the multitude of people, it being then too great a task for one man to undertake, thereupon Hu[illegible] were deduced and de[illegible] Countreys, and in every [illegible] was ordained a Conſervat[illegible] Peace, who was called th[illegible]ble; and after this Borough[illegible] and within ev[illegible] of them alſo was ordained a Conſerv[illegible]r of the Peace, who is called the Petty Conſtable: and this was long before the time of King *Edward* the Third, as appears by the derivation of the words, and that they were in the time of the *Saxons*, ſo that it may ſeem as well the High Conſtables, as the Petty Conſtables and their Authorities, were by the Common Law; and that the old Statutes concerning them, are but a Recital of the

ancient Common Law, 12 *H.* 7. *fol.* 18. *& Dalton's J. P. c.* 16. *fol.* 46.

Now there be other Officers of much like Authority to the Conſtables, as the Burſholders in *Kent*, the third Burrough in *Warwickshire*, and the Tythingman, Borrough-head, or Headburrough or Chief Pledge in other places; but yet the Office of a Conſtable is diſtinct and (as it ſeemeth) is of greater Authority then theſe other: for it is held by ſome that theſe Burſholders, Thirdburroughs, Tything-men, *&c.* being in a Town or Pariſh where a Conſtable is, that in ſuch caſe they cannot meddle, becauſe the Conſtables be (in compariſon of them) Head Officers, and that the others are but as Aſſiſtants to the Conſtables in all Services of his Office when the Conſtable is preſent, and in his abſence then theſe others are to attend the ſervice; and that there are many other things which the Conſtables may do, and wherewith the Burſholders and the reſt cannot meddle at all; and yet in Towns where there be no Conſtables, and that the Burſholders, Tythingmen, *&c.* be there the only Officer; for the Peace, as alſo

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in ſuch caſe where the Power or Authority of a Burſholder, Tythingman, *&c.* is declared to be equal with the power of the Conſtable, in all ſuch caſes and things, their Office and Authority be in a manner all one. See 1 *Jac. c.* 7. *Lamb. pag.* 4,6,9,51,52,53,54,55. *Dalton's J. P. ch.* 1. *fol.* 3, 4.

Where any Statute doth appoint offenders to be puniſhed by the Conſtable, or other inferiour Officer, in ſuch caſe the Tythingman, Headburrough, *&c.* may do it, for they are ſuppoſed to be inferiour Officers to the Conſtable. *Dalton's J. P. ch.* 1. *fol.* 4.

Note that theſe Officers are to be attendant to Court-Leets, Juſtices of the Peace, and Coroners, for the executing of their Warrants, within their ſeveral Precincts.

And now as to the choice of theſe Conſtables, you ſhall underſtand that the Law requireth that every Conſtable be *Idoneus homo*, that is, apt and fit for the execution of the ſaid Office, and he is ſaid in Law to be *Idoneus*, who is indued with theſe three things, honeſty, knowledge and ability. *Co.* 8. *lib. Rep. fol.* 41. in *Grieſlyes* caſe there.

First, he ought to have Honesty to execute his Office truly, without malice, affection or partiality. Secondly, Knowledge to understand what he ought to do. And lastly, Ability as well in substance or estate, as also in body, that so he may attend and execute his Office diligently, and not, through impotency of body or want, to neglect the place; for Constables chosen out of the meaner sort, they are either ignorant what to do, or dare not do what they should, or are not able to spare the time to execute the Office: they ought therefore to be of the ablest sort of men, and are not to be chosen either by House or other Custom, if they be not fit persons for the Office. *Co. 8. lib. rep. fol. 41.*

And if any one shall be chosen Constable, which is not thus qualified and inabled, he may by Law be discharged of his said Office, and another fit man may be appointed in his place. *Co. 8. lib. rep. fol. 42.*

Clergy-men, Justices of the Peace, Lawyers, Physicians, Attorneys, Women, whether Maids or Widows, Madmen, Infants, old, sick, decrepit persons,

ſons, nor poor people, are not to be choſen to the Office of Conſtable.

And note, that a man is to ſerve this Office in reſpect of his perſonal abode and place of Reſiancy, and not in reſpect of his Land in another place, for if he have Lands in one place, and keep houſe in another place, he muſt ſerve where he lives, and not where his Lands lie.

A cuſtom in a Pariſh or Town, that the Office of Conſtable ſhall go by the houſe, is not good; for if a woman have an houſe there, ſhe is eligible, which is againſt Law; but a cuſtom that every man, ſufficient in the place, ſhall ſerve the Office himſelf, or find a ſufficient man to ſerve it, may be good. *Cro.* 1. *Part. Rep. fol.* 283.

A Leet chooſing unable or unfit Conſtables is cauſe of forfeiture of the Leet, and ſuch choce is void, and two Juſtices of Peace, upon complaint to them made, may remove ſuch a Conſtable, and chooſe and ſwear a new one. *Dalt. J. P. c.* 16. *fol.* 47. *Steels Rep. f.* 21. *Mich.* 22 *Car.* 1. *B.R. Bolſted's* 1 *part. Rep. fol.* 174.

The High Conſtables are moſt uſu-

ally choſen at the Quarter Seſſions of the Peace for that County, and are either to be ſworn there, or elſe by warrant from the Seſſions to be ſworn elſewhere; and if it happen that they be choſen out of the Seſſions, then ought they to be choſen by the greater number of the Juſtices of that Diviſion where they dwell. *Lamb.* 190. 13 E. 1. *Stat. Winch. Dalt. J. P. ch.* 16. *fol.* 46.

And in ſuch manner as they are to be choſen, in the ſame manner, and by the like Authority are they to be removed; for *eodem modo quo quid conſtituitur, diſſolvitur.*

By the *Stat.* of the 34 *H.* 8. Two Juſtices of the Peace, the one being of the *Quorum*, may appoint the High Conſtables in *Wales*, 34 *H.* 8. *ch.* 26.

Now for the Swearing and chooſing of petty Conſtables, it properly belongs to the Court-Leet, but in ancient time they were yearly appointed by the Sheriffs in their turn, and were there ſworn and received their Oath, and ſo they may ſtill. *Bacons uſe of the Law, pag.* 5, 6. *Dalt. J. P. c.* 16. *fol.* 47. *& ch.* 121. *fol.* 366.

And

And now by the *Stat.* 14 *Car.* 2. It is provided that if any Conſtable of a Pariſh die, or remove, that any two Juſtices may make and ſwear a new one, to continue till the next Leet or Quarter Seſſions, and then the Steward of, or in the Leet or Juſtices at the Seſſions are to ſwear another, or to approve of him that is choſen; and if any ſuch Officer ſhall continue in his place above a year, the Juſtices at their Quarter Seſſions may diſcharge him, and put another in his place, till the Lord of the Leet ſhall keep his Court and place in another. 14 *Car.* 2. *ch.* 12.

Conſtables lawfully choſen, if they ſhall refuſe to be ſworn; the Juſtices of Peace may bind them over to the Aſſiſes, or Seſſions of the Peace, *Dalt. J. P. ch.* 16. *fol.* 47. *vide Crawlyes* Caſe. *Cro. 1. Part. fol.* 409.

A Conſtable of an Hundred or Pariſh, may not make a Deputy to execute his Office, as ſome hold opinion, but a Deputy may do under him many parts of his Office in his Name, ſo ſtill as the Conſtable muſt anſwer for it. *Bolſtrods* 3 *Part. Rep. fol.* 77, 78.

If any Action be brought againſt a Juſtice of Peace, Maior, or Bailiff of a Corporation, Headborough, Port-Reeve, Conſtable, Tythingman, Collector of Subſidies or Fifteens, Churchwardens, Sworn-men, Overſeers of the Poor, or their Aſſiſtants, for any thing done by reaſon of their ſeveral Offices, they may plead the general iſſue, and give the ſpecial matter in Evidence. *7 Jac. c. 5. 21 Jac. c. 22. Wingate Abr. St. Title Evidence.*

And all Actions, brought againſt ſuch Officers, muſt be laid in the County where the fact was done, and in caſe where the verdict paſſes for the Defendant, or the Plaintiff is Non-ſuit, or diſcontinues his ſuit, theſe Officers ſhall be allowed double coſts, to be recovered as other Defendants recover their coſts. *7 Jac. c. 5. 21 Jac. c. 12. Wingate Abr. Stat. Tit. Evidence.*

The form of the Conſtables Oath is as followeth:

YOu ſhall ſwear well and faithfully to ſerve our Soveraign Lord the King, and the Lord of the Manour, in the Office of a Conſtable; you ſhall ſee the Kings Peace

Peace to be well and duly kept and preſerved to the utmoſt of your power; you ſhall Arreſt all ſuch perſons as in your preſence ſhall ride or go armed offenſively, or ſhall commit or make any Riot, *Affray, or other breach of the Kings Peace; You ſhall do your beſt indeavour that the Statute of* Wincheſter *for the Watch in your Town be duly kept, and that Hue and Cry, and the Statutes for puniſhment of ſturdy Beggars, Rogues, Vagabonds, Night-walkers, and other idle and wandring perſons within your Liberties be duly put in execution: You ſhall do your beſt endeavour upon complaint to you made to apprehend all* Felons, Barrators, Rioters, *and perſons making Affrays, and if any ſuch perſons ſhall make reſiſtance with force, you ſhall levy Hue and Cry, and ſhall purſue them till they be taken; you ſhall have a watchful eye to ſuch perſons as ſhall maintain or keep any common houſe or place, where any unlawful Games or Plays are or ſhall be uſed, as alſo to ſuch perſons as ſhall frequent or uſe ſuch places, or ſhall exerciſe or uſe any unlawful Games or Plays there, or elſewhere contrary to the Statute. At your Aſſizes, Seſſions, or Leet you ſhall preſent all & every the offences committed or done contrary*

trary to the Statutes made and provided for the reſtraint of inordinate haunting and tipling in Taverns, Inns, and Alehouſes, and for repreſſing of drunkenneſs and prophane ſwearing. You ſhall true preſentment make of all bloudſhedding, Affrays, Outcryes, Reſcues, and other offences committed or done againſt the publick Peace, within your Limits: You ſhall well and truly execute all Precepts and Warrants to you directed from the Juſtices of Peace, and others in Authority in this County: and you ſhall well and duly, according to your knowledg, power and ability, do and execute all other things belonging to the Office of a Conſtable, ſo long as you ſhall continue in the ſaid Office.

So help you God.

Or the Oath may be given to the Conſtable in ſhort thus;

YOu ſhall ſwear that you ſhall well and truly execute the Office of a Conſtable (or Tythingman for the Pariſh (or Tything) of C. for this next year, or half a year, as the caſe is) and until another be ſworn in your Room, or you ſhall be legally diſcharged thereof.

So help you God.

CHAP.

CHAP. II.

The Conſtables Office about Affrays.

IF any man ſhall make an Affray or Aſſault upon another in the preſence of the Conſtable, or if any man in his preſence ſhall threaten to kill, beat or hurt another, or ſhall be in a fury ready to break the Peace, in every of theſe caſes the Conſtable may commit the Offenders to the Stocks, or to ſome other ſafe cuſtody for the preſent (as the quality of the perſon requireth) until ſuch time as he can carry them before ſome Juſtice of the Peace, or to the Gaol, until they ſhall find Sureties for the Peace, which Surety the Conſtable himſelf may alſo take by an Obligation to be ſealed and delivered to the Kings uſe: and ſo was the opinion of *Walmeſly*, *Owen*, and *Beamond*, in the Argument of *Skarrett*'s Caſe, *Trin.* 35 *Eliz. Co. Ban. Rot.* 1458. But my Lord *Anderſon* ſaid that the Conſtable ought to carry the parties that he ſhould ſee breaking the Peace, before a Juſtice to find Sureties for the Peace; and at this

day

day this is the moſt uſual and ſafeſt way, *vide* 3 H. 4. 9. & 10. *Bacons uſe of the Law, fol.* 5. *Dalt. J. P. c.* 1. *fol.* 4, 5. & *c.* 118. *fol.* 340. *Kitchin's Court-Leet, &c. fol.* 69. *a.* 22 E. 4. *fol.* 35.

In caſe where the Conſtable had taken ſuch an Obligation to the uſe of the King, he was to ſend it into the Exchequer or Chancery, from whence proceſs ſhould be awarded to levy the debt, if the Peace were broken. *Dalton's J. P. c.* 1. *fol.* 5. *Bacon's uſe of the Law* 5.

The Conſtable in the Kings Name ought to command Affrayers, or ſuch as are about to make an Affray, to avoid or ſurceaſe, and to depart on pain of Impriſonment; and if the Conſtable being preſent at an Affray, doth not his beſt endeavour to part them, it being preſented by the Enqueſt at the Seſſions of the Peace, ſuch Conſtable may be fined for it. *Dalt. J. P. c.* & *fol.* 33.

If any perſon be dangerouſly hurt in any Affray, the Conſtable (or any other perſon) may arreſt the offender, and carry him to a Juſtice of Peace, who is either to Bayl him till the next Gaol Delivery, or to commit him to the

the Gaol until it be known whether the party hurt will live or dye thereof. *Bro. faux Impr.* 35. 44. 3 *H.* 7. 1. 10 *H.* 7. 20. *Lamb.* 136. 38 *E.* 3. 8. & 11. *Dalt. J. P. ch.* 8. *fol.* 33. *Kitchin fol.* 68.

If the Affrayers will not depart but ſhall draw weapons, or give any blow, the Conſtable may command aſſiſtance of others for the pacifying of the Affray, and may juſtifie the beating or wounding of them, if they make reſiſtance, and if either the Conſtable, or any in his Aſſiſtance be ſlain, it is murder in the Affrayers. *Lamb.* 135. 1 *H.* 7. 7. 3 *H.* 7. 10. *Co.* 4. *lib. rep. fol.* 4. & *Co.* 9. *lib. rep. fol.* 66.

The Conſtable (if the Affray be great or dangerous) may in the Kings Name make Proclamation that the Affrayers ſhall keep the Kings peace, and depart, &c. And if the Affray be in an houſe, and the doors ſhut, the Conſtable may break into the houſe to ſee the peace kept, though none of the parties have taken any hurt; and if the Affrayers fly into another mans houſe, the Conſtable upon freſh purſuit may break into ſuch houſe, and apprehend the Affrayers,

frayers. *Dalt. J. P. ch.* 8. *fol.* 34. 33. *Lamb.* 135. 7 *E.* 3. 19.

And where the Affrayers fly into another County, the Conſtable ſeeing this, may freſhly purſue, or cauſe them to be purſued, and to be taken there: but then in ſuch caſe the Conſtable can meddle no further (but as every private man may do) to carry them before ſome Juſtice of Peace of the County where they are taken, to cauſe them to find Sureties for the Peace, *Crompt.* 146. *b.* & 172. *b. Dalt. ch.* 8. *fol.* 34. & *ch.* 118. *fol.* 340. *Plo.* 37.

But in caſe where the Affrayers fly into a Franchiſe only within the ſame County where the Affray was, there the Conſtable, ſeeing this, may freſhly follow and take them out of ſuch Franchize, *Crompt.* 146. *Dalt. J. P. ch.* 8. *fol.* 34.

Note that after the Affray be over, the Conſtable without a Warrant cannot arreſt the Affrayers, except ſome perſon be in peril of death by ſome hurt there received; but before the Affray begun, and during the time thereof, he may arreſt them without Warrant. 38 *H.* 8. *Bro. faux Impr.* 6.

Dalt.

Dalt. J. P. ch. 8. *fol.* 34. *Kitchin* 69. *b.* Where the Affray is made out of the preſence or ſight of the Conſtable, and one cometh to the Conſtable and telleth him of it, and wiſheth him to go and ſee the Peace kept, and the Conſtable will not, in ſuch caſe it is held by ſome that the Conſtable ſhall not be fined by the Juſtices at their Seſſions upon preſentment thereof by the grand Enqueſt; but *quære* hereof, for it is againſt his Oath if he do not ſee the Peace kept, *Crompt.* 146. *Dalt. J. P. ch.* 8. *fol.* 33.

Note that it is properly no Affray, unleſs there be ſome weapons drawn, or ſome ſtroke given or offered to be given, or other attempt to ſuch purpoſe: for if men ſhall contend only in hot words, this is no Affray, neither may the Conſtable for words only lay hands upon them, unleſs they ſhall threaten to kill, beat, or hurt one another, and then may the Conſtable arreſt ſuch perſons, and carry them before a Juſtice of Peace, to find Sureties for the keeping of the Peace; and yet ſuch threatning as aforeſaid, is no Affray. *Bro. faux Impr.* 6. *Cromp.* 135. *Dalt.*

Dalt. J. P. ch. 8. *fol.* 34. *&* 158.

If any affray or an aſſault be made upon the Conſtable himſelf, he may not only defend himſelf, but alſo put the parties offending in the Stocks, till ſuch time as he can carry them to a Juſtice of Peace, or to the Gaol; and if he be not able to arreſt them himſelf, he may then call others to his aſſiſtance, who may juſtifie to arreſt the parties. 5 *H.* 7. 6. *Bro. faux Impr.* 41. 3 *H.* 4. *fol.* 10. *& Dalt. J. P. ch. & fol.* 35. *Kitchin pag.* 69. *a.*

CHAP. III.

The Conſtables Office about Alehouſes, &c.

IF the Conſtables and Churchwardens upon a Warrant directed to them from one or more Juſtices of the Peace, againſt an Inn-keeper, Alehouſe-keeper or Victualler, for ſuffering Tipling in his houſe, or for his meaſure of Ale and Beer, do not reſtrain and levy the forfeitures according to the Statute; that is 20 *s.* for ſelling leſs then a full Ale quart of the beſt Ale or Beer,

or

or two quarts of the ſmall for one penny, and 10 *s.* for Tipling in his houſe; or of there be no diſtreſs to be found, if the Officers neglect by the ſpace of twenty days to certifie the ſame default of diſtreſs to the Juſtices, in any of theſe Caſes the Officers forfeit forty ſhillings to the uſe of the Poor, to be levied by diſtreſs on their Goods by Warrant made to any indifferent perſon, from any one or more Juſtices of the Peace under their Hand and Seal, and for want of Diſtreſs, the Delinquents by any ſuch Juſtice of the Peace may be committed to the Gaol, there to remain until they have paid the ſame forfeitures; but note the diſtreſſes in all theſe caſes muſt be kept ſix days, and if the parties do not within that time pay the forfeitures, then the diſtreſs is to be appriſed and ſold, and the *overplus* returned to the owners. *Wingate Abr. Stat. Title Alehouſes*, &c. 1 *Jac. ch.* 9. 1 *Car.* 1. *ch.* 4. *Dalton's J. P. ch.* 7. *fol.* 28. *Young's Vade Mecum, Sect.* 1, 2, 3.

Or if the Conſtable, or other inferiour Officer of the Pariſh, ſhall neglect to execute the Juſtices Warrant againſt

gainſt Townſmen or others, for Tipling in any Inn, Alehouſe, or Victualling houſe, or againſt men for being drunk, that is 3 *s.* 4 *d.* for Tipling, and 5 *s.* for being drunk, to be levied by diſtreſs on the offenders Goods, and ſale thereof after ſix days default of payment, rendring the overplus to the owner, and for want of diſtreſs, and not being able to pay, the Tipler is to be ſet in the Stocks for the ſpace of four hours, and the Drunkard ſix hours; and if in any of theſe caſes the Conſtable neglect to do his duty, he forfeits ten ſhillings to the uſe of the Poor, to be levied upon his Goods by diſtreſs and ſale as aforeſaid; theſe offences are to be enquired of within ſix months after they are committed: And all Conſtables, Churchwardens, Headburroughs, Tythingmen, Alecunners, and Sidemen, may be charged on their Oaths to preſent the ſaid Offences. 4 *Jac. ch.* 5. 21 *Jac. ch.* 7. *Young's Vade Mecum, Sect.* 4, 5. *Dalt. J. P. chap.* 7. *fol.* 28. *Wingates Abr. Stat. Title, Alehouſes, &c.*

If any keep an Alehouſe without Licence, he forfeits Twenty ſhillings

to

to the uſe of the Poor, which the Conſtable and Churchwardens (upon Warrant from the Juſtice before whom the offence is proved) ſhall levy by diſtreſs upon the offenders Goods, and for default of payment within three days after the ſaid diſtreſs taken, then the ſame is to be ſold for to ſatisfie the penalty, rendring the overplus to the owner; and in caſe the Delinquent hath not wherewithal to ſatisfie, the ſaid Juſtice may commit him to the Conſtable to be openly whipped, and if the Conſtable neglect to execute the Warrant, or do refuſe, or do not execute upon the ſaid offender the puniſhment of whipping, then the Juſtice may commit the Conſtable to the Gaol without Bail, there to remain until the ſaid Offender ſhall be by him puniſhed as aforeſaid, or until the Conſtable ſhall pay 40 *s.* to the uſe of the poor of the Pariſh, 3 *Jac. Chap.* 3. *Wingate Abr. Stat. Tit. Alehouſes, &c. Dalton's J. P. Ch.* 7. *fol.* 31, 32.

If a common Innkeeper or Alehouſekeeper will not lodge a Traveller, he profering to pay ready money for his victuals, then in ſuch caſe the Conſta-

ble

ble may cauſe ſuch Innkeeper, Alehouſe-keeper, *&c.* to be Indicted at the Seſſions or Aſſiſes, where he may be fined and impriſoned, or the party grieved may have his Action of the caſe againſt the Innkeeper or Alehouſekeeper; but note, they are not bound to lodge or find Victuals without ready money firſt paid, if it be required. *Co. 9. Lib. Rep. fol. 87. b.* 10 *H.* 7. 8. 4 *H.* 7. 22. 5 *E.* 4. 2. *Dalton's J. P. c.* 7. *fol.* 28.

CHAP. IV.

The Conſtables Office about Arms, &c.

IF any perſon ſhall ride or go armed offenſively before the Kings Juſtices, or before any other the Kings Officers or Miniſters during their Office, or in Fairs or Markets or elſewhere by Night or by Day in Affray of the Kings People, and breach of the Peace, or wear or carry any Guns, Daggers, or Piſtols charged; in ſuch caſe the Conſtable upon the ſight hereof may ſeize and take away their Armour and other weapons, and cauſe them to be ap-

apprized and anſwered to the King as forfeited, and carry them before a Juſtice to find Sureties for the Peace. 2 *E.* 3. *c.* 3. 7 *R.* 2. 13. 20 *R.* 2. *c.* 1. 14 *E.* 3. *fol.* 33. *Co.* 3. *part. Inſt. fol.* 162. *Dalt. J. P. c.* 9. *fol.* 35. & 159.

But note the Kings Servants in his preſence, Sheriffs and their Officers, and other the Kings Miniſters, and ſuch as be in their Companies aſſiſting them in the execution of their Office, and all others in purſuing Hue and Cry, where any Felony or other offences againſt the Peace be done, may lawfully bear Armour or Weapons. 2 *E.* 3. *chap.* 3. *Co.* 5. *Lik. Rep. fol.* 72. *in S. John's caſe*, 3 *H.* 7. *fol.* 1. *Dalt. J. P. ch.* 9. *fol.* 36.

All High Conſtables, Petty Conſtables, and other Officers within their ſeveral Pariſhes, are to be aiding and aſſiſting to ſuch perſons as ſhall have warrant from the Lord Lieutenants or any two of their Deputies under their Hands and Seals, to ſearch for and ſeize all Arms in the cuſtody and poſſeſſion of any perſon or perſons whom the ſaid Lieutenants or their Deputies ſhall judge to be dangerous to the Peace

Peace of the Kingdom, and to ſecure the ſame, and give account thereof to the ſaid Officers; but ſuch ſearch is to be made in the day time only between Sun riſe and Sun ſet, and not otherwiſe, unleſs it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or houſes within the Bills of Mortality, in which places ſearch may be in the night, if the Warrant ſo direct. No dwelling houſe of any Peer of the Realm is to be ſearched, unleſs the Warrant be from the Kings Majeſty under his Sign-Manual, or in the preſence of the Lieutenant or one of the Deputy Lieutenants of the ſaid County or Riding. And in all places and houſes aforeſaid, where ſearch is made, in caſe of Reſiſtance to enter with force; and ſuch Arms ſo ſeized, where the Lieutenants or their Deputies, or any two of them think fit, may be reſtored to the owners again. 14 *Car. 2. c. 3.*

CHAP.

CHAP. V.

The Conſtables Office about Foreign Bone-Laces, Cut-work, Imbroidery, &c.

THe Conſtables upon Warrant to them directed from the Juſtices of Peace, or chief Officers of the Cities, Towns Corporate, *&c.* are to ſearch within their reſpective Counties, Cities, Towns, *&c.* in the Shops being open, Ware-houſes and dwelling houſe of ſuch perſon or perſons, who ſhall be ſuſpected to have any Foreign Bone-Laces, Cut-works, Imbroideries, Fringes, Bandſtrings, Buttons, or Needle-works made of Thred, Silk, or any or either of them, made in the parts beyond the Seas, and where they find any ſuch to ſeize the ſame. 14 *Car.* 2. *chap.* 13.

CHAP. VI.

The Conſtables Office about Iriſh Cattel.

IF any great Cattel, Sheep, or Swine, or any Beef, Pork, or Bacon (except ſuch as is for the neceſſary Proviſion of the reſpective Ships or Veſſels in which the ſame ſhall be brought, not expoſing the ſame or any part thereof to Sale) ſhall by any wiſe whatſoever be imported or brought from *Ireland*, or any other part beyond the Seas into the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick* upon *Tweed*; in ſuch caſe the Conſtable, Tythingman, Headborough, Churchwardens or Overſeers of the Poor, or any of them within their reſpective Liberties, Pariſhes, or places, may take and ſeize the ſame, and keep the ſame during the ſpace of eight and forty hours, in ſome publick or convenient place where ſuch ſeizure ſhall be made, within which time, if the owner or owners, or any for him or them ſhall make it appear unto ſome Juſtice of Peace of the ſame County where the ſame

ſame ſhall be ſo ſeized, by the Oath of two credible witneſſes that the ſame were not imported from *Ireland*, or from any other place beyond the Seas, (except the Iſle of *Man*) then the ſame, upon the Warrant of ſuch Juſtice of Peace, are to be delivered to the owner or owners without delay. 18 *Car.* 2. *ch.* 2.

But in default of ſuch proof and Warrant, then the ſame to be forfeited and one half thereof to be diſpoſed to the uſe of the Poor of the Pariſh where the ſame ſhall be ſo found and ſeized: and the other half thereof to his or their own uſe that ſhall ſo ſeize the ſame. 13 *Car.* 2. *ch.* 2.

Such Cattel as are Imported from the *Iſle of Man*, (before excepted) into *England*, &c. are not to exceed the number of ſix hundred in one year, and they are to be of no other breed then of the breed of the *Iſle of Man*, and all to be landed at the Port of *Cheſter*, or ſome of the members thereof, and not elſewhere, and this Act continues for ſeven years, and from thence to the end of the firſt Seſſion of the next Parliament. 18 *Car.* 2. *ch.* 2.

But theſe former Remedies not proving ſo effectual for the prevention of the tranſporting of the Cattel aforeſaid, it is further provided, That whenſoever, and as often as it ſhall happen, either through any fraudulent Agreement, or unfaithfull Connivence of any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor, or that it ſhall happen any otherwiſe howſoever, that any great Cattel, Sheep, Swine, Beef, Pork or Bacon, after the firſt Seizure of them or any of them, by virtue of the aforeſaid Act, ſhall be driven, brought, carried into, or found in any other Pariſh or Place, than where the ſame ſhall be firſt ſeized as aforeſaid; That then, and ſo often, and from time to time, it ſhall and may be lawful to and for the Conſtable, Tythingman, Headborough, Churchwarden, or Overſeer of the Poor of every or any ſuch other Pariſh or Place, where ſuch great Cattel, Sheep, Swine, Beef, Pork, or Bacon ſhall be brought, driven, or carried into, or found as aforeſaid, to ſeize, take, and diſpoſe the ſame, and every or any of them as forfeited, The one Moiety thereof

thereof to the Uſe of the poor of ſuch other Pariſh or Place where ſuch Seizure ſhall be made, the other to the Uſe of ſuch Officer or Officers who ſhall ſeize the ſame as aforeſaid; Any other or former Seizure or Seizures, in any other Pariſh or Pariſhes, Place or Places, notwithſtanding. *An.* 20. *C.* 2. *Maii* 1668.

CHAP. VII.

The Conſtables Office about Chimney-Money.

THE High Conſtables and Petty Conſtables Duties about Chimney money by the 14 *Car.* 2. *c.* 10. and the 15 *Car.* 2. *c.* 13. is now much altered, and particular Officers appointed for that purpoſe. 16 *Car.* 2. *c.* 3.

All Juſtices of Peace, Chief Magiſtrates, Treaſurers, and Under-Treaſurers, Conſtables, and other his Majeſties Officers are within their ſeveral Limits and Juriſdictions to be aiding and aſſiſting to his Majeſties Officers appointed for the collecting of the

duty of Hearth-money. *16 Car. 2. ch. 3.*

The Officers appointed by his Majeſty for the Chimney money, once every year, being accompanied with the Conſtable, or Tything-man, Treaſurer, or Under-Treaſurer, or other publick Officer of the place, and in all Pariſhes and places where there are no Conſtables, Tything-men or other publick Officers as aforeſaid, there without any ſuch aſſiſtance, may enter in the day time into a dwelling or other Houſe, Edifice, Lodgings, and Chambers in any of the Inns of Court, or Chancery, Colledges, and other Societies, to ſearch and examine whether there be any more Fire-hearths and Stoves in the ſame then were formerly returned or certified, and what are increaſed and decreaſed ſince the laſt Certificate, and if they find any variance in the number returned, both the Officer and Officers appointed by his Majeſty, and the Conſtable or Tythingman, or other Officer aforeſaid, are to certifie the ſame under his and their hands to the Clerk of the Peace, *&c. 16 Car. 2. ch. 3.*

If

If the party after Demand made by his Majeſties Officers, or their Deputies at the Houſe, Chamber or Place where the duty ſhall ariſe or grow due, make default or refuſe to pay by the ſpace of one hour after ſuch demand, then the Officer or his Deputy may at any time with the aſſiſtance of the Conſtable, Tythingman, or other Officer as aforeſaid, in the day time levy the ſaid duty and all the Arrearages thereof, by diſtreſs and ſale of the Goods of the party or parties ſo refuſing or making default, rendring the overplus to the owners, over and above the duty and Arrearages, and neceſſary charges of taking the Diſtreſs; which Charges are not to exceed one Moiety of the Duty and Arrearages. *16 Car. 2. ch. 3.*

Note that no Arrearages of Hearth-money are to be diſtreyned for after the ſpace of two years next after ſuch duty becomes due: and if any violence, oppoſition, or injury be done by any perſon or perſons to any of his Majeſties Officers or their Deputies in the due execution of their Office, and the ſame proved by Oath before any one

Juſtice of the Peace, or chief Magiſtrate, *&c.* ſuch Juſtice or chief Magiſtrate, *&c.* if they think fit, may ſend the Offender to the Common Gaol for any time not exceeding one month. *16 Car. 2. c. 3.*

The Conſtables are to have two pence in the pound paid them by the Collector to whom they pay the Chimney-money by them collected within their Conſtableries, and are to pay nothing to the Collectors for their Acquittances. *16 Car. 2. c. 3.*

CHAP. VIII.

The Conſtables Office about Conventicles.

IF any Conſtable, Headborough, or Tythingman, neglect to execute the Warrants to them directed for Sequeſtring, Diſtraining and Selling the Eſtate or Goods of any Seditious Conventiculer to be Tranſported: or neglect to diſtrain and ſell the Goods and Chattels of ſuch Offender for the levying of ſuch ſummes of money as ſhall be impoſed on them for the firſt and ſecond

ſecond offence; in ſuch caſes the Officer for his neglect ſhall forfeit five pounds, the one moiety to the King, and the other to him that ſues for the ſame in any of the Kings Courts of Records, 16 *Car.* 2. *c.* 4.

Note, if any perſon be any time ſued for putting in execution any of the powers in the Act againſt Conventicles, ſuch perſon ſhall and may plead the general iſſue, and give the ſpecial matter in Evidence; and if the Plaintiff be *Non*-ſuit, or a verdict paſs for the Defendant; or if the Plaintiff diſcontinue his Action, or if upon Demurrer Judgement be given for the Defendant, every ſuch Defendant ſhall have his or their treble coſts. 16 *Car.* 2. *c.* 4.

By the *Stat.* 22 *Car.* 2. *cap.* 1. made againſt Seditious Conventicles; Every Conſtable, Headborough, Tythingman, Churchwarden, and Overſeers of the Poor, are authorized and required to levy the fines aſſeſſed by the Juſtice of Peace, upon thoſe who ſhall be preſent at unlawful Conventicles, upon their Goods and Chattels, having firſt received a Warrant under the

Hands and Seals of one or more Juſtices or Chief Magiſtrate, and forthwith deliver the money ſo levied to the ſame Juſtice of Peace, or chief Magiſtrate. And by Warrant from one or more Juſtice or Juſtices, or chief Magiſtrate, and reſpective Conſtables, Headboroughs and Tythingmen (Overſeers not named) may with what ayd, force and aſſiſtance they think fit, after refuſal or denial to enter, break open and enter into any houſe or other place, where they ſhall be informed any Conventicle is held, as well within Liberties as without, and take into their Cuſtody the perſons there unlawfully aſſembled, to be proceeded againſt according to this Act.

No Peers Houſe is to be ſearched, unleſs in preſence of a Lord Lieutenant, or two Juſtices of Peace, whereof one to be of the *Quorum*.

If any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor, ſhall know or be credibly informed of any Conventicle within his Precinct, and ſhall not thereof inform ſome Juſtice of the Peace or chief Magiſtrate, and endeavour

vour the conviction of the parties, but neglects his Duty, he forfeits five pound to be levyed on his Goods: And any perſon ſued for acting by this Law, may plead the General Iſſue, and give the ſpecial matter in Evidence, and ſhall recover treble coſts.

CHAP. IX.

The Conſtables Office about Clothiers.

THe Conſtables and other Officers, upon requeſt to them made, are to be aiding and aſſiſting to the Wardens and Aſſiſtants for regulating the Trade of Worſteds and other Stuffs called *Norwich* Stuffs, made within the City of *Norwich* and County of *Norfolk*, 14 *Car.* 2. *ch.* 5.

The Conſtables alſo within the Weſt-Riding of the County of *York*, are upon Warrant from the Juſtices of Peace, Maſters and Warders of the Corporation of Clothiers within the ſaid Riding, or any Thirteen of them, to levy ſuch Fines, Forfeitures and Penalties as ſhall grow due from any Clothier,

Clothier, by vertue of the Act of the 14 *Car.* 2. by diſtreſs and ſale of the offenders Goods, rendring the overplus to the owner upon Demand. 14 *Car.* 2. *c.* 31.

The makers of Cloth muſt pay to their Carders, Spinners, and other Labourers their wages in ready money, and not in Wares, and ſhall deliver them Wool according to due weight on pain to forfeit ſix pence for every default; and the Carders, Spinners, Weavers, Fullers, Dyers, Shear-men, and other Labourers are to do their work faithfully, in pain to forfeit double damages to the party grieved. 4 E. 4. *ch.* 1. *Fitz. J. P.* 203. *& Wingates Abr. Stat. Tit. Drapery.*

And every Juſtice of Peace, High Conſtable, or Steward of Leet, out of a Corporation, and in a Corporation every head Officer where no Maſter is, and every Maſter ſhall hear and determine the complaints of every ſuch Clothier or Draper, as well for non-payment of the Labourers wages, as the damages aforeſaid, by due examination of the parties, for which ſaid damages they have power to commit the offenders

offenders to the Gaol, until the party grieved ſhall be ſatisfied. 4 *E.* 4. *ch.* 1. *Wingate's Abr. Stat. Tit. Drapery.*

The High Conſtables alſo, or Juſtices of the Peace, have power to enter into any Houſe, Lands, or other place, to ſearch for any Tenters, Ropes, Rings, Headwrinches, or other Engines, for ſtretching of Cloth, and if they find any to deface them; and if the owners ſhall afterwards uſe them again, then theſe Officers may take and ſell them, and give the money to the poor. 39 *Eliz. ch.* 20. *Wingate's Abr. Stat. Tit. Drapery.*

CHAP. X.

The Conſtables Office about the Cuſtoms.

WHere a Warrant comes from my Lord Treaſurer, or any of the Barons of the Exchequer, or chief Magiſtrate of a Port, to any perſon for the ſearch of uncuſtomed Goods, ſuch perſon with the aſſiſtance of a Sheriff, Juſtice of Peace, or Conſtable, who are to be aiding and aſſiſting upon requeſt

queſt, may enter into any Houſe in the day time, where ſuch Goods are ſuſpected to be concealed, and in caſe of Reſiſtance, may break open ſuch Houſes, and ſeize and ſecure the ſame Goods ſo concealed in any Houſe. 12 *Car.* 2. *ch.* 19.

No houſe is to be entred by vertue of the Act aforeſaid, unleſs it be within the ſpace of one month after the offence ſuppoſed to be committed, and if the Information, whereupon any houſe ſhall come to be ſearched do prove to be falſe, then in ſuch caſe the party injured ſhall recover his full damages and coſts againſt the Informer, by Action of Treſpaſs to be brought againſt ſuch Informer. 12 *Car.* 2. *ch.* 19.

And by the 14 *Car.* 2. ſuch perſon or perſons as are authorized by Writ of Aſſiſtance, under the Seal of his Majeſties Court of Exchequer, are to take a Conſtable, Headborough, or other publick Officer inhabiting near the place, and in the day time are to enter and go into any Houſe, Shop, Cellar, Warehouſe, Room, or other place, and in caſe of Reſiſtance, break open the Doors, Cheſts, Trunks, and other

package,

package, there to ſeize, and from thence to bring any kind of Goods or Merchandize whatſoever, prohibited and uncuſtomed, and to put and ſecure the ſame in his Majeſties Store-houſe in the Port next to ſuch place where the ſeizure ſhall be made. 14 *Car.* 2. *ch.* 11.

All Officers belonging to the Admiralty, Captains, and Commanders of Ships, Forts, Caſtles and Blockhouſes, and all Juſtices of Peace, Mayors, Sheriffs, Conſtables and Headboroughs, and other the Kings Majeſties Officers and Subjects whatſoever, whom it may concern, are to be ayding and aſſiſting to all and every perſon and perſons which are or ſhall be appointed by his Majeſty to manage his Cuſtoms: and if the Officers of the Cuſtoms, or any acting in aid of them, ſhall be ſued, indicted, proſecuted or moleſted, ſuch perſons, their Heirs, Executors and Adminiſtrators, may plead the General Iſſue, and give the ſeveral Acts relating to the Cuſtoms, or any of them in Evidence, in any of his Majeſties Courts of Juſtice. 14 *Car.* 2. *ch.* 11.

CHAP.

CHAP. XI.

The Conſtables Office about Setting-Dogs, &c.

EVery Conſtable or Headborough, (upon a Warrant under the hands of two or more Juſtices of the Peace) hath power to ſearch the houſes of perſons ſuſpected to have any Setting-Dogs, or any manner of Nets, for taking of Pheaſants or Partridges, and the Dogs and Nets there found, to take, carry away, detain, kill, deſtroy, and cut in pieces. *Dalt. J. P. ch. 37. fol. 90. 7 Jac. c. 11.*

But note, that they cannot ſearch the houſes of ſuch as have Free Warren, or are Lords of any Mannor, or have Freehold of Forty pounds by year or more, of ſome Eſtate of Inheritance, or Eighty pounds by the year for Term of Life, or be worth in Goods Four hundred pounds, for theſe may keep Nets or Dogs to take Pheaſants or Partridges in their own grounds or Precincts. *7 Jac. c. 11. Dalt. J. P. ch. 37. fol. 90.*

CHAP.

CHAP. XII.

The Conſtables Office about Eſcapes and Arreſts.

IF a Conſtable, or any other, which hath a Priſoner under Arreſt for Felony, or Suſpicion thereof voluntarily letteth or ſuffereth the Priſoner to go where he will at liberty (though this be breaking of Priſon) yet it is Felony in the Gaoler, Conſtable, or him that letteth ſuch priſoner eſcape, but it is no Felony in the priſoner; but if ſuch a priſoner ſhall eſcape by the negligence of his keeper, and againſt his will and knowledge, then it is Felony in the priſoner, becauſe a breach of Priſon, and the Gaoler, Conſtable, *&c.* may be Fined by the Judges or Juſtices for ſuch Eſcape. *Bro. Coron.* 112. 224. 316. 454. *& Bro. Eſcape* 31. *Stamford fol.* 32. 44. *Aſſ. Pl.* 18. *Dyer fol.* 99. *Dalt. J. P. c.* 106. *fol.* 272.

If the Conſtable, or other Officer, ſhall voluntarily ſuffer a Thief, being in his cuſtody, to go into the Water, and drown himſelf, this Eſcape is Felony

lony in the Conſtable, and the drowning makes the Thief *Felo de ſe*; but if the Thief ſhall ſuddenly (without the aſſent of the Conſtable) kill, hang, or drown himſelf, this is then but a negligent Eſcape in the Conſtable, and Fineable as aforeſaid. *Dalt. J. P. ch.* 106. *fol.* 272.

The voluntary letting of a Felon to eſcape before he be arreſted for the felony, is no felony in the party that ſuffereth him to eſcape; but if the Conſtable ſuffer one to eſcape when he knows he hath committed a Felony; in ſuch caſe he may be indicted and fined for ſuffering the eſcape; and *quære* if it do not make him Acceſſary to the Felony. 9 *H.* 4. 1. *Stam.* 32. *Bro. Eſcape.* 43. *Dalt. J. P. c.* 106. *f.* 272.

If a man be Arreſted for ſuſpicion of Felony by the Conſtable, or other perſon, and after they ſhall have Intelligence that there is no ſuch Felony committed, here they may ſet the party Arreſted at Liberty again, and they ſhall not be charged with the Eſcape; for there can be no Felon; where there is no Felony committed. 13 *H.* 7. 7. *& Cromp.* 40. *Dalt. J. P. c.* 106. *f.* 275.

But

But if a Felony be committed indeed, and one is Arreſted for the ſame, or for Suſpicion thereof; though the Conſtable or other perſon that made the Arreſt, ſhall after have certain Intelligence and knowledge that the Party Arreſted is not Guilty of the offence; yet they may not ſet the party at liberty, for he muſt not now be delivered by any mans diſcretion, but by due courſe of Law, otherwiſe it will prove a voluntary Eſcape, and ſo Felony, or at leaſt Finable. *Cromp.* 40. 44. *Aſſ.* 12. *Dalt. J. P. c.* 106. *fol.* 275.

In all caſes of miſdemeanour, where a private perſon hath Authority to Arreſt any for any offence, it is requiſite for him to carry and deliver the Priſoner to the Conſtable, or ſome other Officer. *vide* 20 E. 4. 6. *Dalt. J. P. c.* 118. *fol.* 338.

But in caſe where a Juſtice of Peace, Conſtable, or other Officer comes to a Felon to arreſt and take him, and he perceiving, flies into another County before he can be taken, in ſuch caſe the Felon ſhall be carried before ſome Juſtice of Peace of that County where he is taken, and muſt be committed to the

Gaol

Gaol of that County, although the Felony were committed in another County. *Bro. faux Impr.* 25. 11 E. 4. *fol.* 5. *a. Dalt. J. P. ch.* 118. *fol.* 340.

If a man be Arrested for Felony, and the Constable carry him to the Gaol, and the Gaoler will not receive him, then the Constable must bring him back to the Town where he was taken, and that Town shall be charged with the keeping of him until the next Gaol Delivery, by the opinion of the Book, 10 *H.* 4. or the Constable may in such case keep the Prisoner in his own house, as it hath been held by some. See 11 E. 4. *Bro. faux Impr.* 25. *in fine. Dalt. J. P. ch.* 118. *fol.* 340, 341.

But in such case where the Gaoler refuses to receive a Prisoner as abovesaid, or takes any thing for receiving him, upon Information thereof to the Justices of the Gaol Delivery, they will punish him for his offence. 4 E. 3. *c.* 10. *Poulton Prison* 6. *Dalt. J. P. ch.* 118. *fol.* 341.

The Constable, or other Officer, that shall Imprison in the Stocks any Felon, may lock the Stocks, and if need be, may also put Irons on the Prisoner, and

and when he conveyeth him to the Gaol, or to the Juſtice, he may pinion him, or otherwiſe make him ſure, ſo that he cannot eſcape. *Dalt. J. P. ch.* 118. *fol.* 342.

CHAP. XIII.

The Conſtables Office about Exciſe.

THoſe Officers under the Commiſſioners of Exciſe, called Gagers, are to have the Conſtable along with them, when they enter by night into the Houſes of any Brewer, Inn-keeper, Victualler, *&c.* to Gage their Coppers, Fats, or Veſſels, or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chocolatte, Sherbet or Tea, brewed, made or diſtilled in the ſaid Houſes. 12 *Car.* 2. *c.* 23, 24.

Such perſons as ſhall be convicted before the Juſtices of Peace, or Commiſſioners of Exciſe, of any offence and Forfeiture within the Acts for Exciſe; The Conſtables, upon Warrant to them directed from the Juſtices of Peace, are

to

to levy the penalties upon the Goods of the offenders by diſtreſs and ſale thereof, rendring the overplus to the owners, and for want of diſtreſs, they are to carry the party to the Gaol, there to remain till ſatisfaction be made. 12 *Car.* 2. *ch.* 23, 24.

The Conſtables are alſo upon Warrant to them directed to Summon all Alehouſe-keepers, *&c.* to appear before the Commiſſioners of Exciſe at ſuch days and places as ſhall be appointed in the ſaid Warrants from time to time.

CHAP. XIV.

The Conſtables Office about Fiſh.

THE Conſtables and Churchwardens, by Warrant from any one or more Juſtices of the Peace (where any offence is committed in deſtroying the ſpawn and breed of Fiſh, along the Sea-ſhoar, or in any Haven or Creek, or within five miles of the mouth of any Haven or Creek, by Fiſhing with Nets of leſs Meſh then three

three Inches and an half between knot and knot) are to levy the penalty by diſtreſs and ſale of the offenders Goods, rendring the overplus to the owners; the penalty is Ten ſhillings and forfeiture of their Nets. 3 *Jac. c.* 12. *Wingate's Abr. Stat. Tit. Fiſh. Fiſhers and Fiſhing.*

If any Ling, Herring, Codd, or Pichard, Freſh or Salt, dried or bloated, or any Salmons, Eels or Congers, taken by Foreigners, Aliens to the Kingdom of *England*, ſhall be imported, uttered, ſold, or expoſed to ſale in this Kingdom; in ſuch caſe the Conſtable, Headborough, *&c.* or any other perſon may take and ſeize the ſame, and one half thereof muſt go to the uſe of the Poor of the Pariſh where the ſame is ſo found and ſeiſed, and the other half to the uſe of the party that ſeizes the ſame. 18 *Car.* 2. *c.* 2.

CHAP.

CHAP. XV.

The Conſtables Office about Forcible Entries, &c.

IF a Conſtable, or any private perſon of the ſame County do refuſe to attend and aſſiſt the Juſtices of Peace, upon requeſt to remove a Force, or to convey the parties to the Gaol, he may be impriſoned for his neglect, and make Fine to the King. 15 *R.* 2. *ch.* 2. *Dalt. J. P. c.* 22. *f.* 57.

CHAP. XVI.

The Conſtables Office about Hedge-breaking, &c.

ALL ſuch Lewd perſons as are convicted before a Juſtice of Peace, for taking away any Corn growing, Robbing of Orchards, breaking Hedges, *&c.* and their Procurers, and Receivers knowing the ſame, if they cannot give the Parties grieved ſuch ſatisfaction as the Juſtice ſhall think fit, then the

the Juſtice may commit him to the Conſtable to be whipped for the firſt offence, and the like pain for the ſecond offence. And if the Conſtable or other inferiour Officer, do not by himſelf, or ſome other, ſee the ſame be done accordingly, then the Juſtice may commit ſuch Officer to the Gaol, there to remain without Bail, until the ſaid offender be by the ſaid Conſtable, or ſome other by his procurement, whipped as aforeſaid, and this by the 43 *El. ch.* 7.

But now by the 15 *Car.* 2. every Conſtable, Headborough, or other perſon, in every County, City, Town-Corporate, or other place, where they ſhall be, Officers and Inhabitants, have power to apprehend, or cauſe to be apprehended ſuch perſons as they ſuſpect, for having or carrying, or any wiſe conveying any Burthen or Bundles of any kind of Wood, Underwood, Poles, or young Trees, or Bark or Bait of any Trees, or any Gates, Styles, Poſts, Pails, Rales, or Hedgewood, Broom or Furze; and any Conſtable, Headborough, *&c.* by Warrant under the Hand and Seal of one

Juſtice, *&c.* may enter into the Houſes, Outhouſes, Yards, Gardens or other places belonging to the Houſes of ſuch perſons as they ſhall ſuſpect to have any Woods, Underwoods, *&c.* and whereſoever they ſhall find any, ſuch to apprehend, or cauſe to be apprehended the perſons ſuſpected for cutting the ſame, and thoſe alſo in whoſe houſes or other places belonging to them any ſuch Wood, Underwood, *&c.* ſhall be found, to carry before ſome Juſtice of Peace of the County, City, *&c.* and if the party cannot give a good account to the Juſtice how he came by the ſame Wood, *&c.* by the conſent of the owner, ſuch as to ſatisfie the Juſtice, or ſhall not within ſuch time as the Juſtice appoints, produce the party of whom he bought it, or ſome other credible witneſs to depoſe upon Oath ſuch ſale of the ſaid Wood, *&c.* then ſuch perſon ſhall be deemed convicted of the cutting and ſpoiling Wood, *&c.* within the meaning of the Statute of 43 *Eliz.* aforeſaid; and for the firſt offence, if they do not give the owner ſuch ſatisfaction, and within ſuch time as the Juſtice ſhall appoint, and pay o-

ver

ver and above down preſently to the uſe of the Poor of the place where the offence is committed, ſuch a ſum of money as the Juſtice ſhall appoint, not exceeding ten ſhillings, then the Juſtice may commit the party offending to the Houſe of Correction for ſo long time, not exceeding one Month, as he ſhall think meet, or otherwiſe to be whipped by the Conſtable or other Officer; and if ſuch perſon offend again, and be convicted as before, then he muſt be ſent to the Houſe of Correction for one month, and there held to hard labour; and if he offend the third time, and be convicted, then he muſt be uſed as an incorrigible Rogue. 15 *Car.* 2. *ch.* 2.

And if any perſon buy any burthens of Wood, Poles, Sticks, Underwood, *&c.* of any who may juſtly be ſuſpected to have ſtoln, or unlawfully come by the ſame; then upon complaint to a Juſtice of Peace, Head-Officer, *&c.* if upon examination by Oath, *&c.* he find that the ſame were bought of ſuch perſon as aforeſaid, then the Juſtice may order the party that bought the ſame to pay the treble value of the Wood,

&c. to the party from whom they were ſtoln or unlawfully taken; and in default of preſent payment, the Juſtice may iſſue out his Warrant to the Conſtable to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring the overplus to the owner, and for lack of ſuch diſtreſs, then to commit the party to the Gaol at his own charge, there to remain one month without Bayl. 15 *Car.* 2. *ch.* 2.

Note, that none is to be puniſhed by this Law, who hath been puniſhed by a former Law for the ſame offence, nor is any to be queſtioned for any offence within this Statute, unleſs it be within ſix weeks after the offence committed. 15 *Car.* 2. *ch.* 2.

CHAP. XVII.

The Conſtables Office about High-ways.

THe Churchwardens and Conſtables, or Tythingmen of every Pariſh are upon the Monday or Tueſday in *Eaſter* week (after notice given publickly in the Church the Sabbath day before)

before) after Morning Prayer ended, with the advice and conſent of the major part of the Pariſh then preſent, to chooſe two or more of the ſufficient Inhabitants of the place, to be Surveyors or Supraviſors for their High-ways for the next year, and give notice thereof to the parties choſen in writing, under paln of five pounds to be forfeited by the ſame Conſtable, Churchwardens and Pariſh by the *Stat.* 14 *Car.* 2. *ch.* 6. which Statute is to continue till the end of the firſt Seſſions of the next Parliament, or they may be puniſhed by Fine or Amerciament in the Quarter Seſſions, by the diſcretion of the Juſtices, 2, 3 *P. & M. ch.* 8.

The Conſtables and Churchwardens are then alſo to appoint ſix days betwixt that and the four and twentieth day of *June*, for the amendment of the High-ways, and to give publick notice thereof in the Church the next Sunday after. 2 *&* 3 *P. & M. ch.* 8. *&* 5 *El. ch.* 13.

Stewards in Leets have power to enquire after the breach of the Act of the 2 *&* 3 *P. & M.* about High-ways,

and to ſet Fines upon ſuch as make default, at their diſcretion, and ſhall within ſix weeks after *Michaelmas* deliver Indented Eſtreats thereof under their Hands and Seals, *viz.* one part thereof to the Bayliff or High Conſtable of the Liberty, and the other to the Conſtable and Churchwardens of the Pariſh where the Default was made. 2 *&* 3 *P. & M. ch.* 8.

And in default of preſentment thereof in Leets, the Juſtices of Peace in the Seſſions ſhall enquire thereof, and ſet ſuch Fines as they or two of them *quor. unus*, ſhall think fit; whereof the Clerk of the Peace ſhall deliver Indented Eſtreats under his Hand and Seal, within ſix weeks of *Michaelmas*, in like ſort as aforeſaid. 2, 3 *P. & M. ch.* 8.

And theſe Eſtreats of the Stewards of Leets, or Clerk of the Peace, ſhall be a ſufficient Warrant for the Bayliff or chief Conſtable to levy the ſaid Fines by way of Diſtreſs; and if no Diſtreſs can be found, or the party do not pay the Fine within twenty days after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines

and

and Forfeitures ſhall be beſtowed by the Conſtable and Churchwardens on the Highways in the ſame Pariſh. 2, 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 71.

And the Bayliff or High Conſtable is yearly, between the firſt of *March* and laſt of *April*, to render unto the Conſtable and Churchwardens to whom the other part of the Eſtreat was delivered, a true Account of the Moneys received by them, in pain of Forty ſhillings, and the ſaid Conſtables and Churchwardens have power to call the Bayliff or High Conſtable before two Juſtices of the Peace (*Quor. un.*) to paſs the Account, who have power to commit ſuch Bayliff or High Conſtable, until they have ſatisfied all the Arrearages by them received. 2, 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 70.

And upon paſſing ſuch Account, every Bayliff or High Conſtable ſhall have allowed Eight pence for their pains for every pound collected, and Twelve pence for the Fee for the Eſtreat delivered. 2, 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 70.

Any two Juſtices of Peace, upon complaint to them made by the ſucceeding Conſtables and Churchwardens, may call before them the precedent Conſtables and Churchwardens, and may take their accounts, and compel them, as aforeſaid, to pay in all Arrearages in their hands. 2, 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 71.

All Fines and Forfeitures aſſeſſed in the Seſſions upon the *Stat.* 5 *El.* about High-ways, muſt be Eſtreated by the Clerk of the Peace, and muſt be levied, accounted, and imployed as is appointed by the 2, 3 *P. & M. ch.* 8. 5 *El. ch.* 13.

The Surveyers upon Warrant from two Juſtices of Peace, are to levy by diſtreſs and ſale of Goods, the Forfeitures of all ſuch perſons as offend againſt the 18 *El.* 10. in not Scowring their Ditches, *&c.* and if they neglect by the ſpace of a year after the offence committed to levy the Forfeiture: Then the Juſtices may ſend to the Conſtable and Churchwardens to levy the ſame. 18 *El. ch.* 10.

The Conſtables or other Officers by Warrant from any of his Majeſties Juſtices

ſtices of either Bench, Barons of the Exchequer, or Juſtices of the Peace to them directed, are to levy by Diſtreſs and Sale of the Offenders Goods and Chattels, all ſuch penalties (rendring the overplus to the owner) as ſhall be forfeited by any perſon upon the Act of the 14 *Car.* 2. *ch.* 2. for repairing the High-ways and Sewers, and for paving and keeping clean the Streets in and about the Cities of *London* and *Weſtminſter*, &c. and for default of Diſtreſs or *Non*-payment of the ſaid penalties within ſix days after demand thereof, or notice in writing left at the houſe or dwelling place of the Offender, by the ſaid Conſtable or other Officer; the ſaid Offender not being a Peer of the Realm, may be committed to the common Gaol of the ſaid County or City reſpectively, by the Warrant of any ſuch Juſtice under his Hand and Seal, there to remain without Bayl or Mainprize until payment. 14 *Car.* 2. *ch.* 2.

By the *Stat.* 22 *Car.* 2. *ch.* 12. All Conſtables and Surveyers of the High-ways ſhall put in execution the Statutes for repairing or inlarging High-

ways, and levy the penalties thereby impoſed. And every Conſtable or Surveyer of the High-ways neglecting ſo to do, or wilfully ſuffering any Wagons or Carts to paſs through his Limits, with any more Horſes or Cattle, or in any other manner than this Act alloweth, upon conviction thereof by one Oath before one Juſtice, or the Juſtices own view, ſhall pay ſuch fine (not exceeding 40 *s.*) as ſuch Juſtice ſhall Aſſeſs.

All Actions brought againſt any perſon for acting by this Law, ſhall be laid in the proper County, and Defendants may plead the General Iſſue, and recover treble Coſts.

The Clauſe in the former Act about the Tyre of Wheels is repealed.

Enacted that after the 24th. of *July*, 1670. No travelling Wagon, Cart, *&c.* in which any Burdens ſhall be carryed, (except Carts uſed about Husbandry, and carrying Hay, Straw, Corn unthraſhed, Coal, Chalk, Timber for Shipping or Building, Stones of all ſorts, Ammunition or Artillery for the King) ſhall be drawn or go in any road or publick High-way, with above five Horſe-

Horſe-beaſts at length, and if any draw with more Horſes or Oxen, he ſhall draw all two abreaſt except one Horſe.

Every owner of any Wagon, Cart, *&c.* Horſe or Beaſts, ſhall forfeit for every offence 40 *s.* One third part to the Surveyers to amend the ways; one third part to the Overſeers for the Poor; The laſt third part to him who ſhall diſcover the Offender; to be levyed as the penalties againſt Conſtables, *&c.* for their neglects before mentioned.

The Surveyor upon neglect to come and labour, ſhall complain thereof to the next Juſtices, who upon Oath of one witneſs, ſhall levy for every day labour neglected 18 *d.* and for every Man and Horſe 3 *s.* and for every Cart with two men 10 *s.* for each day neglecting.

CHAP.

CHAP. XVIII.

The Conſtables Office about Stoned Horſes.

NOne ought to put to feed upon Foreſts or Commons (except they be Commons where Mares are not uſually kept) any Stoned Horſe, being above two years old, and not fifteen hands high from the lower part of the hoof to the upper part of the wither (every hand containing four inches Standard meaſure) in pain to forfeit the ſame Horſe. 32 *H.* 8. *ch.* 13.

If any Stoned Horſe of leſſer Stature be put to feed in any ſuch Common (unleſs it be in Fen-grounds of the Iſle of *Ely*, and of the Counties of *Cambridge*, *Huntington*, *Northampton*, *Lincoln*, *Norfolk*, or *Suffolk*, where they need be but thirteen hands high) any man may ſeize them to his own uſe, ſo that firſt by the aſſiſtance of the keeper of the ground, or Conſtable, Bayliff, Headborough, or other ſuch Officer of the Pariſh adjoyning, ſuch Horſe be brought to the next Pound, and there by ſuch Officer, in the preſence of three other

other ſufficient men, he be meaſured and found lower then the Statute. 32 *H.* 8. *ch.* 13. 8 *Eliz. ch.* 8. *Wingate Abr. Stat. Tit. Horſes.*

Thoſe that refuſe to Meaſure, or to be preſent at Meaſuring do forfeit 40 *s.* a-piece for every ſuch default, to be divided between the King and Proſecutor; but note that an Horſe that makes an Eſcape into ſuch Common, ſhall not be queſtioned, ſo that he ſtay not above Four days after notice thereof at the owners Houſe, or in his Pariſh Church. 32 *H.* 8. *ch.* 13.

Foreſts and Common grounds muſt be driven yearly at *Michaelmas*, or within fifteen days after, by the Keepers, Conſtables, or other Officers aboveſaid, in pain of Forty ſhillings; and they have power to drive them at any other time of the year at their plaſure, and ſuch likewiſe have the owners of the ground. And if upon the drift any unlucky Tits ſhall be found, they may be killed. 32 *H.* 8. *ch.* 13. *Wingate Abr. Stat. Tit. Horſes.*

Note that this Act of the 32 *H.* 8. *ch.* 13. is not to extend to the County of *Cornwall.* 21 *Jac. ch.* 28.

CHAP.

CHAP. XIX.

The Conſtables Office about Hue and Cry.

THe Conſtables and Officers of every Town, to which Hue and Cry ſhall come, ought to ſearch in all ſuſpected houſes and places within their Limits, and as well the Officers as all other perſons, which ſhall purſue the Hue and Cry may attach and ſtay all ſuch perſons, as in their ſearch and purſuit they ſhall find to be ſuſpicious, and thereupon ſhall carry them before ſome Juſtice of Peace of the County where they are taken, to be examined, where they were at the time of the Felony committed; and if any Default be in the Officers, they may be fined by the Juſtices for their Neglect. *Dalt. J. P. ch.* 28. *fol.* 75.

In caſe of a Robbery where Damages are recovered againſt one or ſome few Inhabitants of the Hundred, and the reſt refuſe to contribute thereunto, in ſuch caſe two Juſtices of the Peace (*Quor. un.*) dwelling within or near the Hundred, may for the levying

ing thereof ſet a Tax upon every Pariſh within that Hundred; according to which the Conſtables and Headboroughs of every Town muſt Tax the particular Inhabitants within their Conſtableries, and then levy the money upon ſuch as refuſe by Diſtreſs and Sale of their Goods, reſtoring them the overplus, and after the money is gathered, they are to deliver the ſame to the Juſtices, or ſome of them that made the Rate within ten days. 27 *Eliz. chap.* 13. *Wingate's Abr. Stat. Tit. Robbery. Poult. Hue and Cry* 6. *Dalt. J. P. ch.* 48. *fol.* 132.

The Hundred where freſh ſuit ſhall ceaſe, ſhall anſwer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Weſtminſter*, in the Name of the Clerk of the Peace of the County, where the Felony was committed, and here the death or change of the Clerk of the Peace, ſhall not abate the Suit; to be taxed and levied as aforeſaid. 27 *Eliz. ch.* 13. *Wingate's Stat. Tit. Robbery.*

Note, that the Hundred is not charge-

chargeable for the Robbery; when any one of the Malefactors ſhall be apprehended, or when the Action is not proſecuted within one year after the Robbery committed; and note alſo that the Hue and Cry ſhall not be deemed Legal, unleſs the purſuit be both by Horſe and Foot. *Wingate's Stat. Tit. Robbery. Bract. Lib. 3. fol. 121. vide Co. 7. Lib. fol. 6, 7. 23 Eliz. Dyer fol. 370. Dalt. J. P. fol. 133.*

He that goeth not at the command of the Sheriff or Conſtable at the cry of the County, that is upon Hue and Cry to Arreſt Felons, after Attainder ſhall be grievouſly fined and impriſoned. *Weſt. 1. ch. 9. Co. 2. Part. Inſt. fol. 172. 2 H. 7. 15. b. 5 H. 7. 5. a.*

CHAP. XX.

The Conſtables Office about Labourers and Servants.

THe Conſtable in the time of Hay and Corn Harveſt, upon the requeſt to him made by any man who wants

wants Labourers; for the avoiding of the loſs of Corn, Grain, and Hay, may cauſe all ſuch Artificers, as he ſhall ſee meet to labour, to ſerve by the day for Mowing, Reaping, or otherwiſe, for the getting in of Corn or Hay abroad, according as they ſee them fit and able to perform; and if ſuch perſons ſhall refuſe to work, after they are requeſted thereunto by the Conſtable, the Conſtable may then ſet them in the Stocks by the ſpace of two days and one night; and if the Conſtable neglect to perform his Office, he Forfeits Forty ſhillings. 5 *Eliz. ch.* 14. *Wingate's Stat. Tit. Labourers.*

And it is alſo provided by the ſaid 5 *Eliz.* that no perſon retained in Husbandry, or in any Arts appointed by that Statute, ſhall depart after the time of ſuch Retainer expired, out of the City, Town, or Pariſh where he laſt ſerved, to ſerve in another without a Teſtimonial, to wit, (in a Town Corporate) under the Hands and Seals of the Magiſtrate and two Houſeholders there, and in the Country under the Hands and Seals of the Conſtable or Conſtables, and two Houſeholders

holders of the Town or Pariſh where he laſt ſerved) which Teſtimonial muſt be Regiſtred by the Miniſter, for which he is to have Two pence, and then to be delivered to the Party. 5 *El. c.* 4. *Wingate's Stat. Tit. Labourers.*

But theſe Teſtimonials are now very ſeldom uſed, although the Statute be very penal in the ſame; for the Maſter that retains a Servant without ſuch a Teſtimonial forfeits five pounds, being thereof convicted upon Indictment taken in the Seſſions of the Peace, and every Servant which ſheweth not ſuch a Teſtimonial to the chief Officer in a Corporation, or to the Conſtable or ſuch other Officer, Miniſter or Churchwardens of the place where he is to dwell, may be impriſoned till he procure one, and if he produce not one within one and twenty days, next after the firſt day of his Impriſonment, or if he ſhall ſhew a falſe or counterfeit one, then he is to be whipped and uſed as a Vagabond. *Dalt. J. P. ch.* 31. *fol.* 86. 5 *El. ch.* 4.

The

The Form of a Teſtimonial is after this manner:

Memorandum that A. B. *Servant to* C. D. *of* Kirk-Leaventon, *in the County of* York, *Husbandman, is Licenced to depart from his ſaid Maſter, and is at his Liberty to ſerve elſewhere according to the Statute in that Caſe made and provided. In witneſs whereof we have hereunto ſet our Hands and Seals this Tenth day of* November, *in the 19th. year of the Reign of our moſt gracious Soveraign Lord King* Charles *the Second*; Annoque Domini 1667.

Jo. Mettcalf *Conſtable of* Kirk-Leaventon.
T. H. }
G. B. } Houſeholders there.

If it be one that lives with a woman, then ſay, *is Licenced to depart from his Miſtreſs or Dame as ſhe is*; and if his Maſter be not an Husbandman, but a Taylor, Smith, Joyner, or ſome other Trade, then name him accordingly in the Teſtimonial.

CHAP.

CHAP. XXI.

The Conſtables Office about Malt-making.

THe Conſtables and Bayliffs of any Town, where any deceitful Malt ſhall be made, or mingled to be ſold contrary to the *Stat.* 2 *E.* 6. may from time to time view and ſearch all ſuch Malt as ſhall be made, or put to ſale within any of their Towns, being evil made, or mingled with evil Malt, contrary to the Statute; then the ſaid Conſtable or Bayliff, ſo finding any ſuch deceitful Malt, with advice of any one Juſtice of Peace, may cauſe the ſame to be ſold to ſuch perſons, and at ſuch reaſonable prizes, as to the diſcretion of the ſame Juſtice ſhall ſeem expedient. 2 *E.* 6. *ch.* 10. 21 *Jac. ch.* 28. 3 *Car.* 1. *c.* 4. *Dalt. J. P. ch.* 33. *fol.* 86, 87.

Now theſe deceitful Malts are of three ſorts, to wit, ſuch as are not well made, and that is where Barly Malt hath not in the making thereof in the Fat, Floor, Steeping and drying thereof, three weeks at the leaſt, except it be in the Months of *June*, *July* and *Auguſt*, and

and in thoſe Months it muſt have 17 days; for under ſuch times it cannot be well made nor wholſom. 2 *E. 6. ch.* 10. *Dalt. J. P. ch.* 33. *fol.* 87.

Secondly, No Malt ought to be put to ſale, unleſs before the ſale thereof, by treading, rubbing and fanning it, they take out of every Quarter half a peck of duſt, or more, on pain to forfeit 20 pence for every Quarter otherwiſe ſold; to be divided between the King and the Proſecutor. 2 *E. 6.* 10.

And thirdly, if any Malts be put to ſale, which are not well made, as aforeſaid, according to the limited time, or which are made of Mow burnt or Spired Barly, or mixed of good and bad together, they forfeit for every Quarter ſo put to ſale two ſhillings to be divided between the King and the Proſecutor, as aforeſaid. 2 *E. 6. ch.* 10. *& Wingate's Stat. Tit. Malt.*

Note, that none ſhall be puniſhed by this Act, who only make the Malt for their own proviſion, nor for the penalties of 20 *d.* or 2 *s. per* quarter, unleſs the Action be proſecuted within one year. *Wingate Stat. Tit. Malt.* 2 *E. 6. ch.* 10. *Dalt. J. P. ch.* 33. *fol.* 87.

CHAP.

CHAP. XXII.

The Conſtables Office about the Militia.

THe Conſtables by Warrant to that purpoſe, under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to Levy ſuch Sums, Forfeitures, Penalties and Payments, as ſhall be charged upon any perſon, or perſons, within their ſeveral Conſtableries, for the furniſhing of Arms, Horſe, or Foot, or payment of Soldiers, &c. according to the Acts for the Militia. 14 *Car.* 2. *ch.* 3. 15 *Car.* 2. *ch.* 4.

And where ſufficient Diſtreſs cannot be had, then the Lord Lieutenants, or their Deputies, by like Warrant to the Conſtable, may commit ſuch Offender to Priſon until he ſhall make ſatisfaction according to the ſaid Forfeiture, Payment, or Penalty. 15 *Car.* 2. *ch.* 4.

CHAP.

CHAP. XXIII.

The Conſtables Office about Moſs-Troopers.

THe Conſtables and other Officers within the Counties of *Northumberland* and *Cumberland*, upon Warrant from the Juſtices of the Peace, are to Levy by Diſtreſs and ſale of the Parties Goods (rendring the overplus to the owners) all ſuch ſums as ſhall be charged upon any perſon within their ſeveral Conſtableries, by the Juſtices at their Seſſions, for the ſafeguard of the Counties againſt the Injury, Theft, and Rapine of Moſs-Troopers; and the Juſtices alſo may examine any complaint againſt the Conſtables or other Officers that ſhall neglect, or refuſe, or fail to give obedience to the Act, or do any thing in diſturbance thereof, and bind over ſuch perſon to the Quarter Seſſions to be proceeded againſt according to Juſtice. 14 *Car.* 2. *ch.* 22.

This Act took force from *Michaelmas*, 1662. and was to continue five years, and now by the *Stat.* 18 *Car.* 2.

it

it is continued for ſeven years longer, which is till *Michaelmas*, 1674. 18 *Car.* 2. *ch.* 3.

CHAP. XXIV.

The Conſtables Office about the Diſturbing of Miniſters.

IF any ſhall purpoſely, without Authority, diſturb a Preacher lawfully licenced in his Preaching of the Word, Praying, or Adminiſtring of the Sacraments, either by their talking, laughing, humming, or the like, any one of the Conſtables or Churchwardens of the place, may of his own Authority preſently apprehend the party, and carry him before a Juſtice of Peace of the ſame County, who upon due accuſation may, if he think fit, commit him to ſafe cuſtody, and within ſix days after, taking with him another Juſtice of the Peace, they may examine the matter, and if by proof of two witneſſes they find it true, they muſt commit him to the Common Gaol, there to remain for Three months, and from thence

thence to the next Quarter Seſſions, at which upon the parties Reconciliation, and entring into Bond, for the good behaviour for one whole year (at the diſcretion of the Juſtices he may be releaſed) but if he perſiſt ſtill in his obſtinacy, he muſt remain in Priſon ſtill without Bayl, uutil he ſhall reconcile, and be penitent for his offence. 1 *Mar. Seſſ.* 3. *ch.* 3. *Wingate's Stat. Tit. Sacraments. Dalt. J. P. ch.* 41. *fol.* 103.

He that reſcues an offender in this kind, ſhall ſuffer like impriſonment, and forfeit Five pounds beſides, and the Inhabitants that ſuffer ſuch an offender to eſcape, being preſented before the Juſtices of Peace in the Seſſions within the County, or Corporation where the eſcape was made, do alſo forfeit Five pounds. *Wingate's Stat. Tit. Sacraments.* 1 *M. Seſſ.* 2. *c.* 3.

This Act does not reſtrain the Juriſdiction of the Eccleſiaſtical Law, howbeit none are to be puniſhed twice for one offence; *Quere* of this Statute, for ſome think it is Repealed by the 1 *El. c.* 2. *vide Lamb.* 199. *Cromp.* 14. *Dalt. J. P. c.* 41. *fol.* 103, 104.

CHAP. XXV.

The Conſtables Office about the Peace.

THe Conſtable may do what he can to keep the Peace, but he cannot take Surety of the Peace at the requeſt of any man. *Cromp. 6. 12 H. 7. fol. 18. a.*

Note, That the breach of the Peace is ſaid to be any injurious force or violence uſed againſt the perſon of another, his Goods, Lands, or other Poſſeſſions, whether it be threatning words or furious geſtures, or force of the body, or any other force uſed *in terrorem. Dalt. J. P. ch. 3. fol. 9.*

The Conſtable, or other Officer, before he Arreſt the party upon a Warrant for the Peace, ought firſt to acquaint him with the matters, and withal, to require or charge the party in the Kings Name, to go along with him before the Juſtice, to find and put in Sureties according to the Warrant; and if the party refuſe either to go before the Juſtice, or to find Sureties then the Officer by vertue of the ſaid

Warrant

Warrant may and ought forthwith Arreſt him, and convey him to the Gaol without carrying him to any Juſtice, and there the party is to remain until he ſhall voluntarily offer and find Sureties; and then ſuch officer muſt be at the next Seſſions of the Peace, there to deliver his ſaid Warrant in, and to certifie all that he hath done thereupon. *Dalt. J. P. ch. 69. fol. 166.* 5 E. 4. 13. *Lamb.* 92. *Bro. faux Imp.* 18. *Cromp.* 235.

But if the party yield to go and find Sureties, then the Officer may not abſolutely Arreſt him, but yet the Officer is not bound to go up and down with the party to find Sureties, but may keep him till he can procure Sureties to come to him; and if afterwards the party ſhall make any reſiſtance, or ſhall offer to go his way, then the Officer may Arreſt him, and carry him to the Gaol, or elſe impriſon him in the Stocks until he can provide aid to carry him to the Gaol. *Dalt. J. P. ch. 69. fol. 166.*

If a Conſtable or other Officer, having a Warrant from a Juſtice of Peace to Arreſt a man, to find Sureties for the Peace, do afterwards receive a *Su-*

perſedeas out of the Chancery, *&c.* or from another Juſtice of the Peace of the ſame County, to diſcharge the ſame Surety of the Peace, and yet nevertheleſs the Officer will urge the party to find Sureties by vertue of the Warrant, the party may refuſe to give it, and if he be Arreſted or Impriſoned for ſuch Refuſal, he may have his Action of falſe Imprſonment againſt ſuch Officer; for ſuch *Superſedeas* is a Diſcharge of the former Precept or Warrant. *Lamb.* 101. *Dalt. J. P. c.* 69. *fol.* 168.

If any ſhall abuſe a Conſtable in doing of his Office, the Conſtable may have the party bound to his good behaviour for it. *Fitz. Barr.* 202. *Cromp.* 135.

If a Conſtable be informed that a man and a woman be in Adultery or Fornication together, or that a man and a woman of evil Report are gone to a ſuſpected houſe together in the Night, the Conſtable may take company with him, and if he find them ſo, he may carry them before a Juſtice of Peace, to find Sureties for the good behaviour. 13 *H.* 7. 10. *Bro. Traverſ.* 432. *Dalt. J. P. ch.* 75. *fol.* 189.

CHAP.

CHAP. XXVI.

The Conſtables Office about Phyſicians.

THe Conſtables and other Officers in *London*, and within ſeven miles round, are to be aiding and aſſiſting to the Preſident of the Colledge of Phyſicians, and all perſons authorized by the ſaid Colledge for the due execution of the Laws and Statutes belonging to the ſaid Colledge, upon pain of running into contempt to the King. 1 *M. Par.* 1. *Seſſ.* 2. *c.* 9. *Wingate's Stat. Tit. Phyſicians.*

CHAP. XXVII.

The Conſtables Office about the Plague.

IF any perſon Infected, or being or dwelling in an houſe infected with the Plague, ſhall be by the Conſtable commanded to keep his houſe, and notwithſtanding ſhall wilfully go abroad and converſe in company, having any infectious Sore on him, it is Felony,

and if ſuch perſon ſhall not have ſuch Sore about him, yet for his offence he ſhall be puniſhed as a Vagabond, by the appointment of any one Juſtice of the Peace, and further ſhall be bound to his good behaviour for one whole year. *Wingate's Stat. Tit. Plague. 1 Jac. c. 31. Dalt. J. P. c. 39. fol. 91.*

The Juſtices of Peace, or any one of them, and other Head Officers in Corporate Towns, within their ſeveral limits, may appoint Searchers, Watchmen, Examiners, Keepers, and Buriers for the perſons and places infected; and if any perſon infected, or dwelling and being in an houſe infected, ſhall contrary to the commandment or appointment of the Juſtice of Peace, or Conſtable, *&c.* wilfully attempt to go abroad, or to reſiſt ſuch their Keepers or Watchmen, then may ſuch Watchmen with violence force them to keep their houſes, and if any hurt happen thereupon, the Watchmen ſhall not be impeached therefore. *1 Jac. ch. 31. Dalt. J. P. ch. 39. fol. 91. Cromp. 122. b. Wingate's Stat. Tit. Plague.*

If the Conſtable or other Officer wilfully neglect to levy the money (by Warrant

Warrant from two Juſtices of Peace, upon the Statute for Relief of any Town infected with the Plague) by Diſtreſs and ſale of the Goods of ſuch perſons as refuſe or neglect to pay; then they forfeit for every ſuch Offence ten ſhillings to be imployed to the ſaid Charitable uſe. *Wingate's Stat. Tit. Plague. 1 Jac. c. 31. Dalt. J. P. c. 39. fol. 91.*

CHAP. XXVIII.

The Conſtables Office about conveying Priſoners to the Gaol.

AN Offender which is to be conveyed to the Gaol, if he be able, muſt bear all charges, both of himſelf and of thoſe that guard him; and if he refuſe to defray and bear the charges, or ſhall not at the time of commitment pay or bear the ſame, then upon a Warrant from a Juſtice of Peace, the Conſtable of the Townſhip, where the Offender hath any Goods (being within the ſame County) may ſell ſo many of the parties Goods as in the diſcretion

of the Juſtice ſhall be thought ſufficient to ſatisfie the ſaid charges, the Apprizement to be made by Four Inhabitants of the Pariſh where ſuch Goods be, and the overplus to be rendred to the owner. 3 *Jac. c.* 10. *Dalt. c.* 43. *fol.* 104. *Wingate's Stat. Tit. Priſon.*

And if the Offender have no Goods to ſatisfie the charges, then the charge muſt be born by the Town where the Offender was taken, which muſt be laid on by way of Tax by the Conſtable, Churchwardens, and two or three other honeſt Inhabitants, and where there are no ſuch Officers, then four of the principal Inhabitants of the Pariſh muſt lay on the Tax, which being allowed under the hand of a Juſtice of Peace, every Inhabitant muſt pay their proportion according to the Tax; and if any refuſe to pay, the Conſtable, Tythingman, or other Officer, by Warrant from a Juſtice of Peace, may levy the ſame by Diſtreſs (and after appriſement by four Inhabitants there) may ſell the ſame, rendring the over-plus to the party ſo refuſing. 3 *Jac. c.* 10. *Wingate's Stat. Tit. Priſon.*

Here if the Conſtable, or other Officer,

cer, that diſtrains, be ſued, he ſhall plead Juſtification, and upon verdict for, or *Non* ſuit of the Plaintiff, he ſhall recover treble Damages, beſides Coſts of Suit. 3 *Jac. c.* 10.

CHAP. XXIX.

The Conſtables Office about Purveyance.

THe Conſtables duty about Purveyance, upon the *Stat.* 36 *E.* 3. *c.* 2. 5 *E.* 3. *ch.* 2. 20 *H.* 6. *ch.* 8. 23 *H.* 6. *ch.* 14. *&* 2, 3 *P. & M. ch.* 6. is now of little or no uſe; for it is enacted by the 12 *Car.* 2. That from henceforth no Moneys, or other thing ſhall be taken, rated or levyed for any Proviſion, Carriages, or Purveyance for the King, his Heirs, *&c.* or for the King, Queen, or any of their Children, for the time being, or any of his Houſhold, of any Timber, Fewel, Cattel, Corn, Grain, Malt, Hay, Straw, Victuals, Cart, or Carriage, Oxen, Horſes, Ploughs, Wains, or other Carriages, or any other thing from any Subject, without the full and free conſent of the owner

firſt obtained without menace or inforcement; but note, that this aforeſaid clauſe being found to be too prejudicial to the King, if the Subjects might not be forced at reaſonable prices to furniſh the King with Carriages, it is therefore altered by the *Stat.* of the 13 *Car.* 2. *ch.* 8. and is thus enacted:

That the Clerk or Chief Officer of the Kings Carriages three days before his Majeſties Arrival, by Warrant from the Greencloth, ſhall give notice in writing to two Juſtices of the Peace adjoyning to the place where his Majeſty is to come, to provide ſuch a number of Carts and Carriages as the ſaid Officer ſhall need for the work, and to expreſs the time and place where the ſaid Carts and Carriages are to attend: and then theſe Juſtices are to require the Country to provide the number of Carts and Carriages of four able Horſes, or four Oxen and two Horſes a piece, at ſix pence a mile for every mile they go laden, to be paid them in hand at the place of lading; and no Carriage to be enforced to travel above one days Journey, from the place where they receive their Lading; and if any refuſe,

refuſe, or ſhall not be ready at the time and place, not having good cauſe to ſhew to the contrary, the ſaid Juſtices upon due proof thereof, and conviction of the offence by the Oath of two Witneſſes, or the Oath of the Conſtable, or other Officer, may (by their Warrant) cauſe to be levied of the Goods of the Offender 40 *s.* by diſtreſs and ſale, rendring the overplus to the owner. 13 *Car.* 2. *c.* 8.

If any Juſtice of Peace, Officer, or Conſtable, ſhall take any Gift or Reward to ſpare any perſon from making ſuch Carriage, or ſhall impreſs more Carriages then ſhall be directed from the Greencloth, upon due proof and conviction thereof, the parties offending ſhall forfeit Ten pounds to be recovered by any perſon by Action of Debt in any of his Majeſties Courts of Record: And if any perſon ſhall take upon him to Impreſs Horſes, Oxen, Carts and Carriages, other then the perſons aforeſaid, upon conviction of the offence, he ſhall ſuffer the puniſhment contained in the 12 *Car.* 2. *c.* 24. which ſee in the enſuing caſe of Pre-emption. *vide* 13 *Car.* 2. *c.* 8.

No

No Pre-emption ſhall be allowed to the King his Heirs or Succeſſors, nor to the Queen, or any of the Children of the Royal Family, in Market, or out of Market; but it is now lawful for all Subjects to diſpoſe of their goods as they pleaſe, and if any perſon ſhall make any Purveyance, or Impreſs any Carriages (otherwiſe than as is appointed by the 13 *Car.* 2. *c.* 8. in the two before going Caſes by order of the Greencloth) or other things by colour of any Authority of Purveyance for the King, *&c.* contrary to the 12 *Car.* 2. *ch.* 24. then two or one Juſtice of Peace next adjoyning, and the Conſtable of the place where ſuch offence ſhall happen, at the requeſt of the party grieved, ſhall commit the party offending to the Gaol, until the next Seſſions, there to be Indicted and proceeded againſt for the ſame, and the party grieved ſhall have his Action againſt the Offender, and therein ſhall recover treble damages and treble coſts. 12 *Car.* 2. *c.* 24.

Two or more Juſtices of the Peace by Warrant from the Lord High Admiral of *England*, or two or more of the

the Principal Officers, or Commiſſioners of the Navy, or of the Maſter of his Majeſties Ordnance, or the Lieutenant of his Ordnance, are to provide Carriages with Horſes and Oxen out of the Country, not being above 12 miles diſtant from the place of lading, the owners of which Carriages, or their Servants, are to receive for every load of Timber 12 pence *per* mile, and for every Tun of other Commodities 8 pence *per* mile; and ſuch perſons as refuſe or neglect to make their appearance, then upon Oath by the Conſtable, or two credible Witneſſes, before the Juſtices, *&c.* ſuch perſon refuſing or neglecting, forfeits 20 *s.* to be levied by Diſtreſs and Sale of his Goods and Chattels by Warrant from the ſaid Juſtices, Mayor, or other chief Officer, or from the principal Officers or Commiſſioners of his Majeſties Navy, or Maſter or Lieutenant of his Majeſties Ordnance, reſpectively, rendring the overplus, if there be any (the charge of Diſtraining being firſt deducted) to the owner. 14 *Car.* 2. *c.* 20.

Note, That no Horſes, Oxen, Cart, Wain, or other Land Carriage, ſhall be in-

inforced to travel more days Journey from the place where they receive their Lading, or be compelled to continue longer in the imployment, then ſhall be appointed by the order of the ſaid Juſtices of Peace, and that ready money be made to the parties in hand at the place of Lading, according to the Rates aforeſaid. 14 *Car.* 2. *c.* 20.

If the Juſtices, Mayor, chief Officer, Conſtable, or any perſon appointed, ſhall take any Gift or Reward to ſpare any, or maliciouſly charge or grieve any perſon through Envy, *&c.* they forfeit Ten pounds, to be recovered in any of his Majeſties Courts of Record. And if any take upon them to Impreſs Horſes, Oxen, Carts, *&c.* other then the perſons aforeſaid, they are to be puniſhed as is appointed by the 12 *Car.* 2. *c.* 24. which ſee before in the caſe of Pre emption. 14 *Car.* 2. *c.* 20.

Note, that this Act of the 14 *Car.* and the 13 *Car. c.* 8. ſtand upon continuance till the end of the firſt Seſſion of the next Parliament.

CHAP.

CHAP. XXX.

The Conſtables Office about Quarter Monies for Maimed Soldiers, Priſoners, &c.

THe Conſtables and Churchwardens are to levy, by Diſtreſs and Sale of the Offenders Goods, ſuch money as is rated upon any perſon within their Conſtablery for the Relief of poor maimed Soldiers and Mariners, rendring the overplus to the owner. 43 *Eliz.* 3. *Wingate's Stat. Tit. Captains and Soldiers.* 14 *Car.* 2. *c.* 9.

And this Money, ſo collected, is to be paid quarterly to the High Conſtable of the Hundred Ten days before every Quarter Seſſions, or elſe the Conſtable and Churchwardens, their Executors, *&c.* forfeit twenty ſhillings: And the High Conſtable is to pay in the Collection money (to the Treaſurers appointed by the Juſtices) every Quarter Seſſions, or otherwiſe he, his Executors, *&c.* forfeits 40*s.* which forfeitures are to be levied and employed by the Treaſurers for the encreaſe

of

of their Stock for the uſes aforeſaid. 43 *El. c.* 3. 14 *Car.* 2. *c.* 9. *& Wingate's Stat. Tit. Captains and Soldiers.*

The High Conſtables are to make Quarterly payment, at every Seſſions unto the Collectors appointed by the Juſtices, of all ſuch Sums of money as are raiſed in every Pariſh, and paid to them by the Churchwardens or Conſtables, for the Relief of the poor Priſoners in the Gaol, under pain of Five pounds. 14 *El. c. Wingate's Stat. Tit. Priſon and Priſoners.*

The Conſtables and Churchwardens are to levy, by Diſtreſs and Sale of the Offenders Goods, ſo much money as is rated upon any perſon within their Pariſh, for the Relief of the Priſoners in the Kings Bench and Marſhalſey, and alſo of Hoſpitals and Almſhouſes, and relief of the poor within their County, rendring the overplus to the owner; and for want of ſuch Diſtreſs, the Juſtice of Peace may commit the party to Priſon, there to abide till it be paid, without Bayl or Mainprize; which money the Churchwardens are to pay to the High Conſtable ten days before the end of every Quarter Seſſions; and

if

if the Churchwardens their Executors, *&c.* fail to pay this Money, they forfeit Ten ſhillings; and if the High Conſtable, his Executors, *&c.* fail to pay the Treaſurers of the County the ſame money at the Quarter Seſſions, they forfeit twenty ſhillings; which Forfeitures the Treaſurers may levy by Diſtreſs and Sale as aforeſaid, and the Moneys to be imployed to the uſes aforeſaid. 43 *Eliz. ch.* 2. *Wingate's Stat. Tit. Poor People. Dalt. J. P. ch.* 53. *fol.* 135.

CHAP. XXXI.

The Conſtables Office about Popiſh Recuſants.

POpiſh Recuſants above Sixteen years of Age, ſhall within Forty days after their conviction repair to their uſual dwelling, and not remove above Five miles from thence, in pain to forfeit all their Goods and Lands, and Annuities during Life; and if they have no certain abode, then are they to repair to the place where they were born,

born, or where their Father and Mother dwells, and within twenty days after their arrival, there to give their Names in writing to the Miniſter, Conſtables and Headboroughs, which Miniſter is to enter them in a Book to be kept for that purpoſe, and he, together with the ſaid Conſtables and Headboroughs, are to certifie the ſame to the next Quarter Seſſions, where the Juſtices of Peace muſt cauſe the ſame to be inrolled. 35 *El. c.* 2. *Wingate's Stat. Tit. Crown.*

The Conſtables and Churchwardens of every Pariſh, or the one of them, or if there be none ſuch, then the High Conſtables of the Hundred there, are once every year to preſent at the General Seſſions of the Peace, the monthly abſence from Church of every Popiſh Recuſant and their Children, being above the age of nine years, and their Servants together with the age of their Children as near as they can know them, in pain to forfeit reſpectively for every ſuch default twenty ſhillings; which Preſentment the Clerk of the Peace, or Town Clerk ſhall Record without Fee, in pain of Forty ſhillings.

ſhillings. *Wingate's Stat. Tit. Crown*, 3. *Jac. c.* 4.

If the Miniſter, petty Conſtable, or Churchwardens of any Pariſh, or any two of them, ſhall complain to any Juſtice of Peace, of any perſon ſuſpected for Recuſancy, then any ſuch Juſtice may tender the Oath of Supremacy to the perſon ſuſpected, and if he refuſe to take it, then the Juſtice may commit the party to the Gaol, there to remain until the next Aſſiſes or Seſſions of the Peace; and if then the party refuſe again, he incurs a *Præmunire*, but if it be a Woman Covert, ſhe ſhall only be impriſoned, there to remain without Bail till ſhe take the ſaid Oath. *Wingate's Stat. Tit. Crown. Dalt. J. P. ch.* 45. *fol.* 108. 7 *Jac. c.* 6.

CHAP. XXXII.

The Conſtables Office about Riots and Routs.

SHeriffs, Conſtables, and all other the Kings Officers, ſhall ſuppreſs Rioters, and impriſon them, and all other

ther Offenders againſt the Peace. *Wingate's Stat. Tit. Riots*, &c. 27 *R.* 2. *ch.* 8.

Knights and all other Temporal perſons under that degree, that be above the Age of Fifteen years, and be able to Travel, upon warning given are to be aſſiſtant to the Juſtices, when they ſhall be reaſonably requeſted to ſuppreſs Riots on pain of Impriſonment, and to make Ranſom to the King. 2 *H.* 5. 8. *Wingate's Stat. Tit. Riots*, &c. *Dalt. J. P. ch.* 46. *fol.* 114.

Note, where three perſons or more ſhall come or aſſemble themſelves together, to the intent to do any unlawful Act, with force or violence, againſt the perſon of another his poſſeſſions or Goods, as to kill, beat, or otherwiſe to hurt, or to impriſon a man; to pull down an Houſe, Wall, Pale, Hedge, or Ditch; wrongfully to enter upon, or into another mans Poſſeſſion, Houſe, or Lands, *&c.* or to cut or take away Corn, Graſs, Wood, or other Goods wrongfully, or to hunt unlawfully in any Park or Warren, or to do any other unlawful act (with force or violence) againſt the Peace, or to the manifeſt terrour of the people; if they only

only meet to ſuch a purpoſe or intent, although they ſhall after depart of their own accord, without acting any thing, yet this is an unlawful Aſſembly, becauſe of their intention at the firſt. *Bro. Tit. Riot.* 4, 5. *Cromp.* 68. *Co. 3 part. Inſt. fol.* 176. *Dalt. J. P. ch.* 85. *fol.* 217. *Terms de Ley, verb. Rout. Lamb.* 179. 181.

If after ſuch meeting, as aforeſaid, they ſhall ride, go, or move forward towards the execution of ſuch Act, whether they put their intended purpoſe in execution or not, this is a Rout. *Bro. Riot.* 4. *Co. 3. part. Inſt. fol.* 176. *Terms de Ley, verb. Rout. Dalt. J. P. ch.* 8. *fol.* 217.

And if they do any ſuch thing indeed, then it is a Riot. *Co. 3 part. Inſt. fol.* 176. *Terms de Ley, verb. Riot. Dalt. J. P. ch.* 85. *fol.* 217. *Bro. Riot.* 4 & 5.

CHAP.

CHAP. XXXIII.

The Conſtables Office about Rogues and Vagabonds.

THe Conſtable Headborough, or Tythingman, aſſiſted by the Miniſter and one other of the Pariſh, is to ſee (or do it himſelf) Rogues and Vagabonds, which ſhall be taken begging, ſtripped naked from the middle upwards, and openly whipped till their body be bloody, and then forthwith to be ſent away from Conſtable to Conſtable the next ſtraight way to the place of their birth, and if that cannot be known, then to the place where they laſt dwelt by the ſpace of one whole year, before ſuch puniſhment; and if that cannot be known, then to the Town through which they laſt paſſed unpuniſhed: And when they come there, if it cannot be diſcovered where they were born, or laſt dwelt as aforeſaid, then are they by that Conſtable to be conveyed to the Houſe of Correction, or Common Gaol of the County, to be imployed in work, or placed

placed in ſome ſervice, and ſo to continue by the ſpace of one year; or in caſe they be not able in body, that Town is to keep them till they may be placed in ſome Almſhouſe within the ſame County. 39 *El. ch.* 4. *Wing. Stat. Tit. Vagabonds. Reſoluc. Judges Sect.* 714. *Bolſt.* 2. *Part. Rep. fol.* 258.

After ſuch whipping, the Vagabond is to have a Teſtimonial under the Hand and Seal of the Conſtable, Tything-man, *&c.* and the Miniſter, teſtifying the day and place of his puniſhment, the place to which he is to be conveyed, and the time limited for his paſſage thither; which time, if by his own Default he exceeds, he ſhall from time to time incur the like puniſhment, till he arrive at the place limited; the ſubſtance of the Teſtimonial is to be Regiſtred by the Miniſter in a Book, which he is to keep for that purpoſe in pain of Five ſhillings. See the Form of the Teſtimonial, *pag.* 104. *Wingate's Stat. Tit. Vagabonds. Dalt. J. P. fol.* 129. *Poulton Vagab.* 3.

If any Conſtable, Headborough or Tythingman, be found negligent in the due execution of the Act of the 39 *Eliz.*

liz. aforeſaid, he forfeits Ten ſhillings for every Default, and all ſuch perſons as ſhall in any wiſe diſturb or hinder the execution of the Law, or any part thereof, concerning the puniſhment of Rogues, forfeit Five pounds, and to be bound to the good behaviour: and obſerve therefore that by the Reſolution of the Judges, *Sect.* 13, 14. where a Rogue is to be conveyed from Conſtable to Conſtable the next ſtraight way to the place of his birth, in ſuch caſe, if the Conſtable of any Pariſh will not receive ſuch Rogue, to convey him to the next Conſtable, *&c.* this is a forfeiture of Five pounds in ſuch Officer that ſhall not receive the party, to convey him or her, and he may be bound, as aforeſaid, to the good behaviour, and if he receive him, and do not convey him to the next Conſtable, it ſeems he incurs the like penalty, *39 Eliz. ch.* 4. *Poul. Vag.* 5, *&* 11. *Dalt. J. P. ch.* 47. *fol.* 128. *& Reſol. Judges. Sect.* 13, 14.

Every perſon ſhall apprehend or cauſe to be apprehended, ſuch Rogues as he ſhall ſee or know to reſort to his houſe to beg, or receive any Alms, and

and him or them ſhall carry, or cauſe to be carried to the next Conſtable, or elſe ſhall forfeit for every ſuch default Ten ſhillings; and the Conſtable is to whip and convey ſuch Rogues as afore directed, on pain of twenty ſhillings. 1 *Jac. ch.* 7. *Poul. Vag.* 5. *Dalt. J. P. ch.* 47. *fol.* 128. *Wingate's Stat. Tit. Vagabond.*

Two Juſtices of the Peace (*quor. un.*) by Warrant under their Hands and Seals, may cauſe to be levied by Diſtreſs and Sale of the Offenders Goods all the Fines and Forfeitures aforeſaid, appointed by the *Stat.* 39 *Eliz. ch.* 4. & 1 *Jac. ch.* 7. after Conviction of the party, which muſt be after by confeſſion or proof of two ſufficient Witneſſes before the ſaid Juſtices; *Poul. Vag.* 1. 39 *Eliz. ch.* 4. 1 *Jac. ch.* 7. *Dalt. J. P. ch.* 47. *fol.* 149. *Wingate's Stat. Tit. Vagabond.*

If the Conſtables or Tythingmen neglect to make privy ſearch for Rogues upon Warrant from the Juſtices of Peace, and to appear before the Juſtices at their meeting appointed for that purpoſe, to give an Account upon Oath in Writing under

the Miniſters hand, teſtifying what Rogues, *&c.* they have taken in that ſearch, or ſince the laſt meeting, and how many have been puniſhed, or otherwiſe ſent to the Houſe of Correction, or if they neglect ſafely to convey ſuch to the Houſe of Correction, as by the ſaid Juſtices Warrant are to be committed thither, they are to incur what Fine the Juſtices pleaſe to ſet upon them, ſo that it exceed not Forty ſhillings. 7 *Jac. ch.* 4. *Wingate's Stat. Tit. Vagabond.*

Any Juſtice of Peace may Reward any perſon or perſons who ſhall apprehend and bring before him any Rogue, Vagabond, or Sturdy Beggar, by granting to ſuch perſon a Warrant under his Hand and Seal to the Conſtable, or Tythingman of the place, through which the Rogue, *&c.* did paſs, unapprehended, ordering the Conſtable, *&c.* to give ſuch perſon two ſhillings for every Rogue ſo taken; and if ſuch Conſtable, *&c.* refuſe or neglect to pay the ſame, the Juſtices of the Peace may proceed againſt ſuch Conſtable, *&c.* according to the Statute of the 1 *Jac. ch.* 7. before mentioned,

oned, and then compel him to pay ſo much money as he hath forfeited by the ſaid Statutes, and allow the ſaid Two ſhillings out of the ſaid forfeiture to the ſaid perſon, and alſo reaſonable allowance for loſs of time, as they ſhall think fit. 14 *Car.* 2. *c.* 12.

And if any perſon ſhall apprehend any Rogue, *&c.* at the Confines of any County, which paſſed through any Pariſh of another County unapprehended, then the perſon ſo apprehending ſuch Rogue muſt carry him to ſome Juſtice of Peace of that County, through which he paſſed unapprehended, who (upon a Certificate under the hand of ſome Juſtice of Peace of the County where ſuch Rogue was apprehended) is to grant his Order or Warrant under his Hand and Seal to the Conſtable, *&c.* to pay two ſhillings as aforeſaid; which if he refuſe or neglect, then the Juſtice is to proceed againſt ſuch Conſtable, *&c.* and cauſe him to pay Ten ſhillings to the party, or ſo much thereof, for loſs of time, as the Juſtice ſhall think fit. 14 *Car.* 2. *c.* 12.

Whereas Conſtables, Tythingmen,

&c. are at great charges in Relieving conveying with Paſſes, and carrying Rogues, *&c.* to the Houſes of Correction, *&c.* It is enacted that all Conſtables, Tythingmen, *&c.* ſo out of Purſe, together with the Churchwardens and Overſeerrs of the Poor, and other Inhabitants of the Pariſh, may make a Rate and Tax all the Inhabitants of the Pariſh, chargeable by the 43 *Eliz.* which Rate muſt be confirmed by two Juſtices of the Peace under their Hands and Seals; and if any perſon refuſe to pay his part thereof, then by Warrant from Two Juſtices the Conſtable may levy the ſame upon the parties Goods, that refuſeth, rendring the overplus to the owner, if any be. 14 *Car.* 2. *ch.* 12.

Note, That all theſe perſons following, being above the Age of ſeven years, Man or Woman, Sole or Covert, that wander from their uſual place of abode, abroad every where begging; or if they do not beg, yet if they wander and loyter abroad without a lawful Paſſport, and give no good reaſon for their Travel, are accounted Rogues: All Scholars and Sea-faring

ring men which beg, wandring perſons, that uſe unlawful Games, ſubtile Craft, or Plays, or pretending themſelves to have skill in Phyſiognomy, Palmeſtry, or the like, or to be Fortune-tellers; all Proctors, Patent-gatherers (except for Fire) Collectors for Gaols, Priſoners, or Hoſpitals, wandring abroad, Fencers, Bearwards, Common Players of Enterludes, and Fidlers or Minſtrels wandring abroad, all Juglers, Tinkers, Pedlers, and petty Chapmen, and Glaſs-men wandring abroad, eſpecially if they be not well known, or have not a ſufficient Teſtimonial; all counterfeit *Egyptians* not being Felons; all perſons delivered out of Gaols, which beg for their Fees, or otherwiſe do travel begging, ſuch as go to or from the Bathes and do not purſue their Licence; Soldiers and Mariners that beg, and counterfeit a Certificate of their Commanders; All Labourers which wander abroad out of the Pariſh, and refuſe to work for wages reaſonably taxed, having no living otherwiſe to maintain themſelves, and ſuch as go with a general Paſsport which is not directed from Pariſh to

Pariſh; all theſe are accounted Rogues, Vagabonds, and Sturdy Beggars: And all Servants departing out of their Service (to wit, forth of one City, Town or Pariſh to another, or out of one Hundred or County to ſerve in another) without a Teſtimonial, or which ſhall be taken with a falſe one, and thoſe that are ſick of the Plague, and wilfully go abroad in company againſt the command of Officers, are to be puniſhed as Vagabonds, but obſerve that none but the wandring Rogue is to be ſent to the place of his birth, or laſt habitation; for thoſe poor people which beg in their own Pariſh, without the appointment of the Overſeers, or in the High-ways, are to be ſent to the Houſe of Correction. 39 *Eliz. ch.* 4. *&* 17. 43 *Eliz. ch.* 2. 1 *Jac. ch.* 7. 21 *Jac. ch.* 28. 7 *Jac. ch.* 24. 5 *Eliz. ch.* 4. *Poult. Vag.* 2 *&* 7. *Reſol. Judges.* 13, 15. *Dalt. J. P. ch.* 47. *fol.* 123, 124, 125. *& Cro.* 2. *part. Rep. fol.* 577.

Note, That the Wife, and Children under ſeven years of age, being vagrant, muſt go and be placed with the Husband; and if the Husband be dead, then

then with the Wife where ſhe was born, or laſt dwelt; and vagrant Children above ſeven years of Age, muſt be ſent to the place of their birth; and if the vagrant Parents with their Children under ſeven years of Age be placed at the place of the birth of the Parents, or at the laſt place of dwelling, as the caſe falls out; if afterwards the Parents, or either of them die, or run away, yet the Children once ſetled, muſt remain there ſtill, and may not be ſent to the place of their birth, though afterwards they attain to the age of ſeven years; and the Wife being but a vagrant Rogue, ought to be ſent to the Husband, though he be but a Servant in another Town, and the Rogue whoſe place of birth or dwelling cannot be known, having a Wife or Children under ſeven years of age, they muſt go with the Husband to the place where they were laſt ſuffered wilfully to paſs through unpuniſhed; where the Children muſt be relieved with the work of their Parents, though their Parents be committed to the Houſe of Correction. 39 *El. ch.* 4. *Poult. Vag.* 2. *Reſoluc. of the Judges, Sect.* 4, 5. *Dalt. J. P. ch.* 47. *fol.* 125.

Now the Form of a Teſtimonial, for the conveying a Rogue that hath been baniſhed, is as followeth;

JOhn Roo *a Sturdy Vagrant Beggar (of tall ſtature, gray haired, and blind of the left Eye) aged about fifty years, was this* 2d. *day of* February, *in the twentieth year of the Raign of our moſt gracious Soveraign Lord King* Charles *the Second of* England, &c. *openly whipped at* Kirk-Leaventon *in the County of* York, *according to Law, for a wandring Rogue; and is aſſigned to paſs forthwith from Pariſh to Pariſh, by the Officers thereof, the next ſtraight way to* A. *in the County of* Weſtmerland, *where as he confeſſeth he was born; and he is limited to be at* A. *aforeſaid, within Ten days now next enſuing at his peril. Given under the Hands and Seals of* J. H. *Miniſter of* Kirk-Leaventon *aforeſaid, and* J. M. *Conſtable there.* Wingate's Stat. Tit.

CHAP.

CHAP. XXXIV.

The Conſtables Office about Profane Swearing.

IF any perſon or perſons ſhall profanely Curſe and Swear, for every time ſo offending they forfeit Twelve pence; the offence to be proved within Twenty days after it is committed, by the Oath of Two Witneſſes, or by confeſſion of the party before any Juſtice of Peace, or Head Officer of any City or Town Corporate; who thereupon may iſſue out their Warrant to the Conſtables, and Churchwardens, and Overſeers of the Poor of that Pariſh where the ſaid offence ſhall be committed, and the ſaid Conſtables, *&c.* are to levy the ſum and ſums of money by diſtreſs and ſale of the Offenders Goods, rendring the overplus, if any be, to the owner. 21 *Jac. ch.* 20. 3 *Car.* 1. *c.* 4. *Wingate's Stat. Tit. Swearing. Dalt. J. P. c.* 55. *f.* 138.

Note, Where no Diſtreſs is to be had, the Offender, if above Twelve years of Age, ſhall by Warrant as a-

foreſaid, to be ſet in the Stocks Three whole hours; but if the Offender be under the Age of Twelve years, and ſhall not forthwith pay the ſaid ſum of Twelve pence *per* Oath, then he or ſhe is to be whipped by the Conſtable, or by the Parent, or Maſter, in the Conſtables preſence. 21 *Jac. chap.* 20. 3 *Car.* 1. *chap.* 4. *Dalt. J. P. chap.* 55. *fol.* 138.

CHAP. XXXV.

The Conſtables Office about Profaning the Sabbath.

THe Conſtable by Warrant from a Juſtice of Peace, (or the chief Officer of any City, Borough, or Town Corporate) under their Hand and Seal, againſt ſuch as uſe unlawful Games on the Sabbath day, as Bull-baiting, Bear-baiting, Enterludes, or other unlawful Exercíſes within their own Pariſh, or out of their own Pariſh at any ſuch Sports whatſoever, may levy the penalty of Three ſhillings and Four pence by Diſtreſs and Sale of the Offenders Goods,

Goods, rendring the overplus to the owners; and in default of Diſtreſs, the Conſtable is to ſet the Offenders in the Stocks by the ſpace of three hours: Note, that the party offending in theſe Games, muſt be queſtioned within a month after the offence committed. 1 *Car.* 1. *ch.* 1. *Dalt. J. P. ch.* 23. *fol.* 63.

If any one on the Sabbath day keep, or be preſent at any Wreſtlings, Shootings, Bowlings, Ringing of Bells for pleaſure, Mask, Wake, Church-Ale, Dancing, Games, Sport, or paſtime whatſoever, they forfeit Five ſhillings, if he or ſhe be above Fourteen years of Age, and if under that Age, then Twelve pence by him that hath the government of the party, to be levied by Sale and Diſtreſs by the Conſtable, by Warrant from a Juſtice of Peace, or chief Officer, as aforeſaid; and for want of Diſtreſs to be ſet Three hours in the Stocks; and every Carrier going with his Horſes on this day, or Wagoner, Carter or Waynman going with any Wagon, Cart or Wayn, or Drover with his Cattel, forfeit Twenty ſhillings for every offence, to be levied alſo by Diſtreſs and Sale of his Goods,

Goods, if he be queſtioned within Six weeks after the offence done; but there muſt be but one Twenty ſhillings forfeited for one Journey, although they paſs through ſeveral Pariſhes, and this Twenty ſhillings that Pariſh ſhall have where the Diſtreſs is firſt taken. 3 *Car.* 1. *ch.* 1. *Dalt. ch.* 50. *fol.* 134.

And if any Butcher by himſelf, or any for him, ſhall kill or ſell any Victuals upon the Lords day, he forfeits Six ſhillings and Eight pence, to be levied by the Conſtable by Diſtreſs and Sale, as aforeſaid, upon Warrant from a Juſtice of Peace, *&c.* the offence to be queſtioned within Six weeks after it is committed, and the parties to be convicted before any Juſtice of Peace, Mayor, or head Officer, *&c.* upon their own view, proof of Two Witneſſes or more, or the parties own confeſſion; and the Juſtice, Mayor, *&c.* may reward the Informer with a Third part of the penalty. 3 *Car.* 1. *ch.* 1. *Dalton's J. P. ch.* 50. *fol.* 134.

CHAP.

CHAP. XXXVI.

The Conſtables Office about Tobacco Planting.

ALl Sheriffs, Juſtices of Peace, Mayors, Bayliffs, Conſtables, and every of them, upon Information or Complaint made to them, or any of them, by any of the Officers of the Cuſtoms, or by any other perſon or perſons whatſoever, that there is any Tobacco ſet, ſown, planted, or growing within their Juriſdictions or Precincts (except ſuch as is growing in any Phyſick Garden of either Univerſity, or in any other private Garden; where the quantity of ground planted exceeds not one half of one Pole, in any one place or Garden) they are within ten days after ſuch Information or Complaint, to cauſe to be burnt, plucked up, conſumed, or utterly deſtroyed all ſuch Tobacco ſo ſet, ſown, planted, or growing. 12 *Car.* 2. *c.* 34.

And if any perſon or perſons ſhall reſiſt, or make forceable oppoſition againſt any perſon or perſons in the due execu-

execution of this Office as aboveſaid, every perſon or perſons for every ſuch offence, ſhall forfeit the ſum of Five pounds, to be recovered in any Court of Record; and be alſo committed to the common Gaol of the County where the offence was committed, there to remain without Bayl or Mainprize, until he, ſhe, or they, do enter into Recognizance to his Majeſty, his Heirs and Succeſſors, with two ſufficient Sureties in Ten pounds penalty, not to do or commit the like offence again. 12 *Car.* 2. *ch.* 34. 15 *Car.* 2. *ch.* 7.

CHAP. XXXVII.

The Conſtables Office about Weights and Meaſures.

EVery City, Borough, and Market Town within *England*, ought to have common Weights and Meaſures ſealed, at which the Inhabitants themſelves may freely weigh; and all Forreigners muſt pay for every Draught under 40 pound, a Farthing; for a Draught between Forty and a Hundred,

dred, muſt pay an half penny, and for a Draught betwixt an Hundred and a Thouſand they muſt pay a Penny; wherewith the Weights are to be maintained, and the Officers which attend that Service are to be rewarded at the diſcretion of the ſaid Inhabitants. 8 *H. 6. ch.* 5. *Wingate's Stat. Tit. Weights and Meaſures.*

Every City which wants ſuch Weights and Meaſures forfeits Ten pounds to the King, every Borough Five pounds, and every Market Town Forty ſhillings; and the chief Officers of ſuch places, whether they be Conſtables, Bayliffs, or others are, upon Requeſt to them made, to mark and ſign ſuch Weights and Meaſures to any of the Kings Subjects, taking for the marking of every Buſhel one penny; and none ought to ſell with any other Weights or Meaſures, but ſuch as are ſo marked. 8 *H. 6. ch.* 5. 11 *H. 7. ch.* 4. *Wingate's Stat. Tit. Weights and Meaſures.*

Mayors and chief Officers are, *&c.* are at leaſt once every year to view all Meaſures and Weights within their Juriſdiction, and break or burn them which

which they find defective, and alſo may inflict puniſhment upon the Offenders; for the firſt offence Six ſhillings Eight pence, for the ſecond Thirteen ſhillings and Four pence, and for the third offence Twenty ſhillings; and beſides, may adjudge them to the Pillory. *Wingate's Stat. Tit. Weights and Meaſures.* 11 *H.* 7. *c.* 4.

By the *Stat.* 22 *Car.* 2. *c.* 8. All Conſtables are impowred to ſearch and examine if any perſon buy or ſell by any other Buſhel then *Wincheſter* Meaſure, containing Eight Gallons to the Buſhel or Strike, and ſealed by the Clerk of the Market; and if any perſon do not ſtrike the ſame even with the brim; and any Conſtable may ſeize and break ſuch other Meaſure, and preſent the Offender at the next Private or Quarter Seſſions.

CHAP.

CHAP. XXXVIII.

The Conſtables Office about Watches.

THe Conſtables,*&c.* of every Town, are to cauſe Night Watch to be kept from *Aſcenſion* till *Michaelmas*, in their Towns, which Watch muſt continue from Sun ſet to Sun riſe, and may be by two or four men, according to the greatneſs of the Town. 13 *E.* 1. *ch.* 4. *Dalt. J. P. ch.* 60. *fol.* 140. *Poul. Watch.* 1.

Theſe Watchmen are to apprehend all Strangers that paſs by them in the Night, and muſt examine them; and if they find cauſe of ſuſpicion in them, then they may keep them till the morning; and if the parties refuſe to obey the Arreſt, then the Watchmen may levy Hue and Cry for the taking of the ſaid Night-walkers; or the Watchmen may juſtifie the beating of them upon their reſiſtance, and ſet them in the Stocks till the morning, and then if no ſuſpicion be found in the parties, they may let them go quit: but if they find ſuſpicion in them, then the Watchmen may

may deliver them to the Conſtable, who is to convey them to a Juſtice of Peace to be examined, and to be bound over, or committed until they be acquitted according to due form of Law. *Dalt. J. P. ch. 60. fol. 140. & ch. 109. fol. 292. 5 E. 3. 14. 5 H. 7. 5. 2. Lamb. Office Conſt.*

Theſe Watchmen are alſo to apprehend Rogues and Vagabonds, Night-walkers, Eveſdroppers, Scouts, and ſuch like, and ſuch as go armed, *&c.*

And note, that theſe particulars following have been held for Law concerning Watches.

Firſt, That the Watch muſt be by men of able body, and ſufficiently armed, and that no man is compellable to watch, except he be an Inhabitant within the ſame Town.

Secondly, That ſuch as are Inhabitants within the Town, are not compellable to watch at the will of the Conſtable, but only when their turn cometh, according to the uſe and cuſtom of the place, which moſt commonly is by turn, or houſe.

Thirdly, If a man who is compellable to watch, ſhall contemptuouſly refuſe

to

to watch, upon the command of the Conſtable; it hath been held, by ſome, that the Conſtable in ſuch caſe, *ex Officio*, may ſet the party in the Stocks for his contempt; but the ſafeſt way is for the Conſtable to preſent ſuch perſon for his default at the Aſſizes or Seſſions of the Peace, or elſe to complain of him to a Juſtice of Peace, who may bind the Offender to the good behaviour, and ſo over to the next Quarter Seſſions, *&c. Dalt. J. P. ch. 60. fol.* 141.

CHAP. XXXIX.

The Conſtables Office about Executing Warrants.

A Juſtice of Peace may direct his Warrant to the Sheriff, Bayliff, Conſtable, or other Officer, or to any other Indifferent perſon by Name, though he be no Officer. 14 *H.* 8. 16. *Bro. Peace* 6. *Dalt. J. P. ch.* 117. *fol.* 332.

A Warrant directed by the Juſtice of Peace to the Conſtable, or other ſworn Officer, and to a Stranger who is no

no Officer, and the Warrant is made to them joyntly and ſeverally, and is delivered to the Stranger who executeth it, this is good enough: and if a Warrant from a Juſtice of Peace be directed to two men joyntly to Arreſt another, yet any one of them may do it alone. *Cromp.* 147. *Dalt. J. P. ch.* 117. *fol.* 332.

If a Juſtice of Peace direct his Warrant to the Sheriff, he may by word command his Underſheriff, Bayliff, or other known and ſworn Officer, to ſerve it without any Precept to them in writing, and they upon ſuch Commandment of the Sheriff may lawfully do it. *Lamb.* 91. *Bro. faux Impriſ.* 43. *& Treſpaſs* 339. *Dalt. J. P. ch.* 117. *fol.* 332.

But if the Sheriff in ſuch caſe do command a Stranger, who is neither his Servant nor Sworn Officer, then he muſt do it by Precept in writing, or otherwiſe an Action of falſe Impriſonment lies for the Arreſt. *Dalt. J. P. ch.* 117. *fol.* 332.

Where a Warrant is directed by a Juſtice of Peace to the Sheriffs Bayliff, or his Servant, or to the Conſtable, or other private perſon to Arreſt one, ſuch

ſuch perſon cannot command another to do it, neither by word nor writing, but muſt do it himſelf. *Co. 9. Lib. Rep. fol. 69. 14 H. 7. 9. b. 20 H. 7. 13. 21 H. 7. 14. Dalt. J. P. ch. 117. fol. 332.*

The Officer, to whom any Warrant ſhall be directed, ought with all ſpeed and ſecrecy to ſeek and find out the party, and then to execute his ſaid Warrant. *Dalt. J. P. ch. 117. fol. 332.*

A ſworn and known Officer (be he Sheriff, Under-Sheriff, Bayliff, or Conſtable) needs not to ſhew his Warrant to a man when he comes to ſerve it upon him, although he demand it; but he who is no ſworn Officer ought to ſhew his Warrant upon demand, or otherwiſe the party may make reſiſtance and not obey him, and a ſworn Officer alſo upon the Arreſt, though he will not ſhew his Warrant, yet he ought to acquaint the party with the contents thereof. *M. & 8 E. 4. f. 14. a. Bro. faux Impr. 23. Dalt. J. P. c. 117. f. 332, 333. Co. 6. Lib. Rep. 54. & 9. Lib. f. 68.*

Note, that an Officer giveth ſufficient notice what he is, when he ſaith to the party, *I arreſt you in the Kings Name*, &c. and in ſuch caſe the party at his

his peril ought to obey him, though he knoweth him not to be an Officer; and if he have no lawful Warrant, the party grieved may have his Action of falſe Impriſonment againſt him. *Co. 9. l. Rep. f. 69. Dalt. J. P. c. 17. f. 333.*

If a Conſtable or other Officer Arreſt a man for the Peace, or the like, before that he have a Warrant, and then afterwards doth procure a Warrant (or a Warrant cometh after him) to Arreſt the party for the ſame cauſe, yet the firſt Arreſt was wrongful, and the Officer is ſubject to an Action of falſe Impriſonment. *Dyer f. 244. Lamb. 93. Dalt. J. P. c. 117. f. 333.*

Where a Warrant is granted out againſt *J. N.* the ſon of *T. P.* and the Conſtable or other Officer takes *J. N.* the ſon of *L. P.* although he in truth be the ſame perſon that offended, and againſt whom the complaint was made, yet this Arreſt is tortuous, and the Officer liable to an Action of falſe Impriſonment. 10 E. 4. *f.* 12. *Bro. faux Impr.* 38. *Dalt. J. P. c.* 117. *f.* 333.

But it is ſaid by ſome, that where two or three are known by the Name of *J. R.* of *K.* Yeoman, and upon a Warrant

rant or other proceſs granted out againſt one of them, another of them is Arreſted, in ſuch caſe an Action of falſe Impriſonment will not lie againſt the Officer; *tamen Quære* hereof. 11 *H.* 4. *fol.* 90. 5 *E.* 4. *fol.* 51. *Dalt. J. P. ch.* 117. *fol.* 333.

Where an Officer hath received a Warrant, he is bound to purſue the effects of his Warrant in every behalf; or otherwiſe his Warrant will not excuſe him of that which he hath done. *Dalt. J. P. ch.* 117. *fol.* 333.

The Conſtable, or other Officer, upon a Warrant from a Juſtice of Peace for Treaſon, Felony, the Peace, or good behaviour, or in any other caſe where the King is party, may by force of ſuch Warrant break open a mans houſe to Arreſt the Offender; but in ſuch caſe he ought firſt to ſignifie the cauſe of his coming, and require them to open the Doors, before he break them open. *Co.* 5. *Lib. Rep. fol.* 9. 7 *E.* 3. 19. *Cromp.* 171. *Dalt. J. P. ch.* 78. *fol.* 204, 205. *& ch.* 117. *fol.* 333.

If a Conſtable or other Officer hath arreſted a man by vertue of his Warrant, which he hath from a Juſtice of Peace,

Peace, and then taketh his promiſe that he will come to him ſuch a day to go to the Juſtice with him, according to his Warrant (and ſo he letteth the party go) who comes not again at the day appointed, in this caſe the Officer cannot take him again upon the ſame Warrant, becauſe he was ſuffered to go by the conſent of the Officer; but if the party Arreſted had eſcaped of his own wrong without the conſent of the Officer, in ſuch caſe upon freſh ſuit he may take him again, and again ſo often as he eſcapeth, although he were out of view, or that he do flie into another Town or County; and it is ſaid that the Officer in ſuch caſe, though the party be taken in another County after the Eſcape, yet he may bring the party before the Juſtice on whoſe Warrant he was firſt Arreſted. *Cromp.* 214. *a.* 148. 172. *&* 173. *Dalt. J.P. c.* 117. *f.* 333. *& c.* 118. *fol.* 340.

By the opinion of the Court of the 14 *H.* 8. it was held there that a Juſtice of Peace cannot make a Warrant to Arreſt a Felon, unleſs he be Indicted of Felony (or that the Juſtice himſelf hath a ſuſpicion of the Felon) But if the

the Conſtable, or other Officer, ſhall ſerve ſuch a Warrant, he may juſtifie the ſame, though the Juſtice did erre in awarding thereof. 24 *E.* 3. 9. 14 *H.* 8. 16. *Bro. Peac.* 6. *& faux Impr.* 8 *&* 9. *Dalt. J. P. ch.* 117. *fol.* 331.

Note, That where a Juſtice of Peace doth make a Warrant for a matter wherein he hath Juriſdiction, though it be beyond his Authority, yet it is not diſputable by the Conſtable, or other ſuch Officer, but muſt be obeyed and executed by them; as if the Juſtice ſhall make a Warrant to Arreſt one for the Peace, or good behaviour, *&c.* without any cauſe, the Officer ſhall not be puniſhed for executing the Warrant: But if a Juſtice of Peace ſhall make his Warrant to do a thing out of his Juriſdiction, or in a Cauſe wherein the Juſtice is not Judge, then if the Officer ſhall execute ſuch a Warrant he is puniſhable for it; for the Officer is not bound to obey him who is not Judge of the Cauſe, no more than he is bound to obey a meer Stranger; and ſo note that the Officer is bound at his peril to take notice of the Authority and

Juriſdiction of the Judge. See *Plo. Com.* 394. *b.* 22. *Aſſ. fol.* 64. 14 *H.* 8. 16. *Lamb.* 67. 94. *Co.* 10. *Lib. Rep. fol.* 76. *Cromp.* 74. *Bro. faux Impr.* 8. *Dalt. J. P. c.* 117. *fol.* 334.

If any ſhall abuſe the Juſtice of Peace his Warrant, by caſting it into the dirt, treading it under feet, burning it, *&c.* for ſuch contempt the party may be bound to his good behaviour, and may alſo be indicted and fined for the ſame, for it is the Kings Proceſs. *Cromp.* 149. *Dalt. J. P. c.* 117. *f.* 334.

Where Hue and Cry either by the Common Law, or by force of any Statute is levied upon any perſon, the Arreſt of ſuch perſon is lawful, although the cauſe of the Hue and Cry be Feigned; and if the Cauſe be Feigned, he that Levies the ſame ſhall alſo be Arreſted, and ſhall be Fined and Impriſoned; but common Fame and voyce is not ſufficient to Arreſt a man in caſe of Felony, unleſs a Felony be done indeed. 29 *E.* 3. 9. 38 *E.* 3. 6. *Co.* 3 *part. Inſt. fol.* 118. 21 *H.* 7. 28. *a.*

FINIS.

Conductor Generalis.

A

GUIDE

FOR

Churchwardens, Overſeers of the Poor, Surveyors of the High ways, Treaſurers of the County Stock, Maſters of the Houſe of Correction, Bayliffs of Mannors, Toll-Takers in Fairs, *&c.*

LONDON,

Printed in the Year, 1679.

To all Churchwardens, Overſeers, &c.

Gentlemen,

THeſe following Offices, as well as that of the Conſtable, have been touched alſo by Mr. Lambert, *and Mr.* Sheppard: *but ſince the one writ, there have been many hundred new Statute Laws; and the other, Writing in the late times of Rebellion, hath moulded his work ſuitable to the Manners then in faſhion, and many of the Rules laid down by Mr.* Sheppard *in theſe ſeveral Offices, which thwart the Laws of the Kingdom, and Priviledges of the Church, are now out of doors: I have therefore (for the eaſe and ſatisfaction of thoſe who deſire to be put in the right.*

Way and ſure Road in the executing of theſe ſeveral Offices) collected and publiſhed this ſmall Treatiſe, briefly laying down the Authority and Duty of Churchwardens, Overſeers, &c. in their ſeveral Offices. The deſire of praiſe could not carry me aloft, who want Wings for it; but the main thing, here aimed at, is the good of my Country-men, and I hope to reap the fruit of my labour in it, that is, your kind acceptance, Dear Friends: which if I may obtain, it is all that is deſired by him, who is, and ſhall be

Yours

Ready to ſerve you,

George Meriton.

A GUIDE FOR CHURCH-WARDENS.

CHAP. I.

The Antiquity of the Churchwardens Office, and how they are to be choſen.

1. IT is ſaid by ſome Hiſtorians, that *Dionyſius*, in the year of our Lord 267. divided both in *Rome* and other places, Churches, Church-yards, and Pariſhes to Curates, and Dioceſſes to Biſhops, and this was about 87 years after *Britain* had received the Chriſtian Faith: For though Hiſtorians do not all agree when the Chriſtian Faith was firſt

planted here, yet it is thought by moſt of them to be in the Reign of King *Lucius*, about the year of our Lord 180. but how long after it was before theſe Officers called Churchwardens were appointed, it cannot certainly be known; but Mr. *Lambert* and other Authors do agree, that they are very antient Officers, and by the antient common Law they were, and are ſtill to take care, ſee to, and preſerve the Goods of the Church, *viz.* the Church Books, Communion Cups, *&c.* and other decent Ornaments and furniture of the Church, which they do find there at their coming into their Office.

2. As to the choice of theſe Officers it is appointed by the Book of Canons printed in the firſt year of King *James*, *An. Dom.* 1604. That all Churchwardens, Queſtmen, Sidemen, or Aſſiſtants in every Pariſh ſhall be choſen by the joynt conſent of the Miniſter and the Pariſhioners, if it may be: But if they cannot agree upon ſuch a choice, then the Miniſter ſhall chooſe one, and the Pariſhioners another; and without ſuch a joynt or ſeveral choice, none ſhall take upon them

them to be Churchwardens, neither ſhall they continue any longer then one year in that Office, except perhaps they be choſen again in like manner; and theſe Officers are to be yearly choſen in Eaſter-week. *Can.* 89, 90.

3. But note, where there is an antient cuſtom in any Pariſh for the choice of Churchwardens contrary to this Canon, in ſuch caſe the cuſtom is to be obſerved before the Canon, as appears by ſeveral Caſes hereafter mentioned.

4. If the Pariſhioners of a Pariſh have uſed time out of mind, *&c.* to elect one Churchwarden, and the Vicar another, and afterwards a Canon is made that the Vicar ſhall elect two, and he doth ſo accordingly, and the Pariſhioners elect one according to their cuſtom, and the Ordinary diſallows him, and eſtabliſheth the other two elected by the Vicar; in this Caſe a prohibition ſhall be granted. *P.* 5 *Jac. B. R. the Pariſhioners Caſe of Rovenden in Kent. Rolls caſes*, 2 *part. f.* 287.

5. A Prohibition was granted againſt a Churchwarden choſen by the Parſon of St. *Magnus* nigh *London-bridge*, by force of a Canon, upon a

ſurmiſe that the Pariſh had a cuſtom to chooſe two Churchwardens, *Tr.* 7 *Car.* 1. *B. R. bet. Shirlye & Brown*, *Rot.* 1391. *Roll's Caſes*, 2 *part. fol.* 287. The like againſt a Churchwarden choſen by the Parſon of *Alhallows*, *London*, P. 17 *Jac. B. R. Warner's* Caſe, & P. 5 *Jac.* the Pariſhioners of *Walbrook's* Caſe in *London*. *Cro.* 2 *part. Rep.* The like againſt a Churchwarden choſen by the Parſon of St. *Thomas* in *London*, P. 15 *Car.* 1. *B. R. Evelin's* Caſe, *Cro.* 3 *part.* and the like granted between *Draper* and *Stone* for *Abchurch* in *London*, P. 4 *Car.* 1. *B.R. Rot.* 420. *Roll's* Caſes, 2 *part. f.* 287.

6. An Attorney cannot be made a Churchwarden: if he be put in and refuſe, and ſo be ſued in the Spiritual Court, he may have a Prohibition; P. 14 *Car.* 1. *B. R. Wilſon's caſe*, & *Tr.* 15 *Car.* 1. *B. R. Barker's caſe. Roll's caſes*, 2 *part. f.* 272.

7. By the *Stat.* 15 *Car.* 2. All Veſtry men, or thoſe who are members of any Veſtry within any Pariſh in the Cities of *London* and *Weſtminſter*, Borough of *Southwark*, and Weekly Bills of Mortality, and in all other Cities, Boroughs and Towns Corporate, where

where Select Veſtries are uſed in the Kingdom of *England*, are within one month after their Election, before the reſpective Archbiſhop, Biſhop, or Ordinary, Vicar General or Chancellour of the Dioceſs to make and ſubſcribe as followeth:

I A. B. *do declare that it is not lawful upon any pretence whatſoever, to take up Arms againſt his Majeſty. And that I do abhor that traiterous Poſition of taking Arms by his Majeſties Authority againſt his perſon, or againſt thoſe that are Commiſſionated by him. And that I will conform to the Liturgy of the Church of* England, *as it is now eſtabliſhed. And I do declare, that I hold there lies no obligation on me, or on any other perſon from the Oath commonly called* The Solemn League and Covenant, *to endeavour any change or alteration of Government either in Church or State; And that the ſame was in it ſelf an unlawful Oath, and impoſed upon the Subjects of this Realm, againſt the known Laws and Liberties of this Kingdom.* 15 Car. 2. c. 5.

8. He that refuſes this Subſcription within the time aforeſaid, is *ipſo facto* deprived of ſuch his place of Veſtry-

man,

man, and a new one to be choſen; and if ſuch new one refuſe alſo, or if ſuch perſon who ſhall have right of Election, ſhall not proceed to Election within one month after ſuch vacancy, then the reſpective Archbiſhop, Biſhop or Ordinary of the Dioceſs may under his Hand and Seal elect and nominate a diſcreet perſon of the reſpective Pariſh, who after Subſcription within the time aforeſaid is to ſtand. 15 *Car.* 2. *c.* 5. This Act is to continue till the end of the firſt Seſſion of the next Parliament.

CHAP. II.

The Churchwardens Office about Prophanation of the Sabbath, and of the Church.

9. THeſe Officers are diligently to ſee that all the Pariſhioners duly reſort to their pariſh Church upon all Sundays and Holydays, and there continue the whole time of Divine Service, and none to walk or ſtand idle, or talking in the Church, Church-yard, or Church-Porch during that time; and all

all ſuch as ſhall be found ſlack or negligent in reſorting to the Church (having no great or urgent cauſe of abſence) they ſhall earneſtly call upon them, and after due admonition, if they amend not, they muſt preſent their Names to the Ordinary of the place. 5, 6 *E.* 6. *c.* 1. *canon* 19, 90, 111.

10. If the Churchwardens find any perſon abſent from the Church upon Sundays or Holydays, in the time of Divine Service, Preaching, or other holy Exerciſe, ſuch perſon is to pay 12 *d.* to the uſe of the Poor; and this extends as well to all Women Covert, as to other perſons: or the Churchwardens, if the pleaſe, may preſent ſuch perſon in the Eccleſiaſtical Court. But note that none are to be puniſhed twice for one offence, ſo that they muſt not pay their twelve pence, and be preſented too. 1 *El. ch.* 1. *Hobbart's Rep. fol.* 97.

11. And if they find any Tipling in an Inn or Alehouſe, *&c.* then, beſides the twelve pence for being abſent from the Church as aforeſaid, they forfeit three ſhillings four pence more for Tipling, and the Maſter of the Houſe

House ten shillings for suffering them to Tipple; which forfeitures are to go to the use of the Poor. 4 *Jac. c.* 5.

12. The Churchwardens or Questmen are to suffer no Plays, Feasts, Banquets, Suppers, Church Ales, Drinkings, Temporal Courts or Leets, Lay Juries, Musters, or any other profane usage to be kept in the Church, Chappel, or Church-yard; neither the Bells to be rung superstitiously upon Holy days, or Eves abrogated by the Book of Common Prayer, nor at any other times, without good cause, to be allowed by their Minister of the place and by themselves. *Canon* 88.

13. Neither the Minister, Churchwardens, nor any other Officers of the Church, shall suffer any man to preach within their Churches or Chappels, but such as by shewing their Licence to preach shall appear unto them to be sufficiently Authorized thereunto: And the Churchwardens or Questmen are also to see that in every meeting of the Congregation the Peace be well kept, and that all persons excommunicated, and so denounced, be kept out of the Church. *Canon* 50. 85.

CHAP.

CHAP. II.

Some few Caſes concerning Actions for and againſt Churchwardens.

14. NOte, that the Law doth make of theſe Officers a kind of a Corporation, *viz.* Perſons enabled by that name to take moveable Goods or Chattels, and to ſue and to be ſued at Law concerning ſuch Goods for the uſe and profit of their Pariſh; for the property of the Goods of the Church is in them, and they are by that Name enabled to take them for the uſe and profit of the Pariſh: and therefore a man may well in his life time, or by his laſt Will, give or grant Money, or other moveable Goods to the Churchwardens, or Pariſhioners of ſuch a Pariſh, for the Reparations of the Church, or for buying of Books, Communion Cups, Linnen Cloths, or other decent Ornaments or Furniture for the Church. 12 *H.* 7. *fol.* 27. *Finch's Law, lib.* 2. *ch.* 17. *pag.* 178. *Kitchin, pag.* 278. *a.*

15. But they cannot take an Eſtate of Lands

Lands to them by Name of Churchwardens only, for if a Feoffment be made to the uſe of the Churchwardens of *D.* this is a void uſe, for they have no capacity to take ſuch Purchaſe. *Finch. Lib.* 2. *ch.* 17. *p.* 179. *Rolls Caſes*, 1 *part. f.* 393.

16. Neither can they preſcribe to have Lands to them and their Succeſſors; for they are no Corporation to have Lands, but for Goods for the Church only. *P.* 37 *El. C. B. Longley & Meredines caſe. Rolls caſes*, 1 *part. fol.* 393.

17. If a Man buy a Bell, and hang it up in the Steeple, or make a Pew and ſet it up in the Church, though he make neither words nor writing hereof, yet by this the Bell and Pew are ſo dedicated to the Church, that the party that did owe them, can never have them again; for if they ſhould come to remove them, the Churchwardens might ſue them for it. 8 *H.* 7. 12. 10 *H.* 4. *f.* 9. *Kitchin, pag.* 277. *a.*

18. They can have no action at common Law to Recover any Goods of which they never had the poſſeſſion: But if the Churchwardens be once poſſeſſed

poſſeſſed of any Goods, or Ornaments belonging to the Church, and afterwards, the ſame things are taken from them, then they have the ſame remedy for the things, as other men have for the Goods taken from them: And therefore if ſuch Goods be ſtoln, they may have an Appeal of Robbery, and if they be otherwiſe taken away or abuſed; as if a Bell be broken, or the like, the Churchwardens may have an Action againſt him that doth it: and in this Action they recover Damages to the uſe of the Pariſh, and not to their own uſe. *Tr.* 8 E.4. *f.* 6. *b.* 37 *H.*6. 32. *Finch lib.* 2. *chap.* 17. *pag.* 178, 179. *Abr. Daſſ. fol.* 76. *Kitchin, pag.* 277. *b.* & 278. *a.*

19. And it ſeems alſo, that the party that doth ſteal or take away any Goods belonging to the Church may be puniſhed for it as for a ſacrilegious offence: And obſerve, that if the Churchwardens from whom the Goods were taken be out of their Office, their Succeſſors, as it ſeems, may ſue for, or recover the ſame, or damages for them to the uſe of the Pariſh. *Vide M.* 31, & 32 *El. B. R. Hadman*

&

& Kingwood's caſe, Cro. Rep. 3. Part.

20. But note, that the Churchwardens have no ſuch property in the Goods of their Church, as thereby to have power to give, ſell, releaſe, hurt or impair them, without the aſſent of the Sidemen or Veſtry. *Vide* 38 *El. Methold & Winnes caſe. Rolls caſes* 1 *part. fol.* 393. and ſee *Hil.* 7 *Jac. B. R. in Starkie and Barton's caſe. Cro. Rep.* 2 *part. & vide* 13 *H.* 7, 9.

21. If the Churchwardens ſhall give or impair the Goods in their cuſtody, the Pariſhioners may chooſe new ones, who may have an account againſt their Predeceſſours. 8 *E.* 4. *fol.* 6. *b. Finch. l.* 2. *ch.* 17. *p.* 179.

22. If the Organs be taken out of the Church, the Churchwardens may have an Action of Treſpaſs for the ſame, for the Organs belong to the Pariſhioners, and not to the Parſon; and therefore the Parſon cannot ſue ſuch party in the Eccleſiaſtical Court that took them. *Tr.* 12 *Jac. B. R. per Curiam. Rolls caſes*, 1 *part. fol.* 393.

23. But if the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Churchyard be cut down,

down, or the Graſs thereof be eaten up, the Parſon or Vicar, and not the Churchwardens ſhall have an Action for it, for they are a Corporation only as to moveable Goods, and ſee 8 *H. 6. fol. 9.* where the Parſon brought an Action of Treſpaſs for breaking and entring into his houſe and cloſe, which was the Church and the Church-yard. 10 *H. 4. fol. 9.* 21 *H. 7. fol.* 21. *& Parſon's Law, p.* 191.

24. The Churchwardens by the aſſent and agreement of the Pariſhioners, may take a ruinous Bell, and deliver it to a Bell-founder, and agree with him that he ſhall have four pounds for caſting it, and that he ſhall retain the ſame till the four pounds be paid: and ſuch Agreement of the Pariſhioners ſhall excuſe the Churchwardens in a Writ of Account brought againſt them by their Succeſſors Churchwardens. *M.* 37, 38 *El. B. R. Methold & Winnes caſe. Rolls caſes, 1 part. fol.* 393.

25. If a Preſentment be made by the Churchwardens in the Eccleſiaſtical Court, That *J. S.* one of the Pariſhioners is a Railer and a Sower of Diſcord amongſt his Neighbours, a Prohibition

hibition lies in ſuch caſe; for this belongs to the Leet, and not to the Spiritual Court, unleſs ſuch Railing were in the Church, or ſuch like place. *M.* 16 *Jac. C. B. Rot.* 716. *Smith & Pannel's caſe. Hobarts Rep. fol.* 246. *Rolls caſes*, 2 *part. fol.* 286.

26. If the Churchwardens of a Church ſue in the Eccleſiaſtical Court for a way to the Church, which they claim to belong to all the Pariſhioners by Preſcription, in ſuch caſe a prohibition will be granted, for this is a temporal cauſe. *P.* 16 *Jac. B.R.* between the Churchwardens of *Bythorn* and *Bow. Rolls Caſes*, 2 *part. fol.* 287.

27. If the Churchwardens of *C.* ſue in the Eccleſiaſtical Court *J. S.* for that he, and all thoſe whoſe Eſtate he hath in ſuch an Houſe, *&c.* at the perambulation of the Pariſhioners of the Pariſh, did uſe to find a refreſhing for them (to wit) Bread and Ale, and ſuffer them to reſt there; here a Prohibition ſhall be granted, for that they claim it in nature of a Corrody; and if that ſhould be ſuffered, a great inconvenience would enſue, *M.* 13 *Jac. B. R.* The Churchwardens of *Vſ-*

fington's

fington's caſe in *Barkſhire*, *Hill.* 15 *Car.* 1. *B. R.* The like Prohibition prayed in one *Lock*'s caſe, which was referred to Juſtice *Jones*, *Rolls caſes*, 2. *part. f.* 287. The like Prohibition granted in one *Reynold*'s *caſe. Mores Rep. fo.*———

28. If the Churchwardens of a Church ſue in the Court Chriſtian *J. S.* ſuppoſing by their Libel, that he and all thoſe who had an Eſtate in certain Lands adjoyning to the Churchyard, have uſed time out of mind to repair ſo much of the Fences of the Churchyard, which were next adjoyning to the ſaid Land, in this Caſe a Prohibition will be granted; for this ought to be tryed at the Common Law, in ſo much as that it doth charge a Temporal Inheritance; *M.* 14 *Car.* 1. *B. R.* the Churchwardens of *Claydon* and *Duncomb*'s caſe, *Rolls caſes*, 2 *part. fol.* 287.

CHAP.

CHAP. III.

The Churchwardens Office about diſpoſing of Seats in their Church.

29. THeſe Officers are to look to the repair of the Seats in the Church, but the diſpoſing of the Seats in the body of the Church, belongs of common Right to the Ordinary of the Dioceſs, ſo that he may place and diſplace whom he pleaſeth, except in ſome caſes. *Roll's caſes, 2 part. fol.* 288.

30. For if a Man and his Anceſtors, and all thoſe whoſe Eſtate he hath in a certain Meſſuage, have uſed time out of mind, *&c.* to repair an Iſle of the Church, and to ſit there and none elſe, the Ordinary in ſuch caſe cannot diſplace him; for if he do, a Prohibition lies, becauſe he hath it by a Preſcription for a reaſonable conſideration. *M.* 10 *Jac. C. B. Pimme's caſe, per curiam, Roll's caſes, 2 part. fol.* 288.

31. If a man preſcribe that he and his Anceſtors, and all thoſe whoſe Eſtates they had in a certain Meſſuage, did uſe to ſit in a certain Seat in the body

body of the Church, time without mind, *&c.* in conſideration that he, and they, *&c.* have uſed time out of mind, to repair the ſaid Seat; if the Ordinary remove him from ſuch Seat, a Prohibition may be brought; for the Ordinary hath no power to diſpoſe of it, for it is a good Preſcription, and by intendment there hath been a good conſideration for the commencement of ſuch Preſcription. *Tr.* 12 *Jac. C. B. Croſſes* caſe. *M.* 13 *Jac. C. B. Laugh & Huſſys* caſe, *& M.* 13 *Jac. C. B. Boothby & Days* caſe. *Rolls caſes*, 2 *part. fol.* 288.

32. But if a man preſcribe to have a Seat in the body of the Church generally, without conſideration to repair the ſame, then the Ordinary in ſuch caſe may diſplace him. *M.* 11 *Jac. B. R. per curiam, & M.* 13 *Jac. C. B. inter Boothby & Bayly. Hobbart's Rep. fol.* 69. *Roll's caſes*, 2 *part. fol.* 288.

33. The Ordinary hath nothing to do with the Seats in the Chappels belonging to the houſes of Noblemen; *T.* 12 *Jac. C. B. Roll's caſes*, 2 *part. fol.* 288.

34. But if a Layman by the diſſoluti-

on

on of Monaſteries hath a Monaſtery in which there is a Church, parcel of it, and he ſuffers the Pariſhioners for a long time to come to it, and do Divine Service, and to uſe it as their Pariſh Church, this (unleſs for all the whole time the party hath uſed to place men in their Seats himſelf) ſhall give Juriſdiction to the Ordinary to order the Seats; for that now in fact is the Pariſh Church, although that before it were not ſubject to the Ordinary. *Tr. 12 Jac. C. B. Buzzard's caſe, Rolls 2. part. fol.* 288, 289.

35. If there be a cuſtom in a Pariſh, that twelve of the Pariſhioners may chooſe Churchwardens, which Churchwardens have power by the cuſtom to repair the Seats and make new ones in the body of the Church, and to appoint what perſons ſhall ſit in them; and the Churchwardens ſo elected do erect a new Seat in the Body of the Church, and appoint a certain man to ſit there, and afterwards the Ordinary decrees that another ſhall have the Seat, here a Prohibition lies: for the cuſtom hath fixed the power of diſpoſing the Seats in the Churchwardens, *P. 16 Jac.*

Jac. B. R. Brabin and *Tredennick*'s caſe for a Seat in *Breock* Church in the County of *Cornwal*: but the reaſon of granting the Prohibition in this caſe, was partly becauſe that the Sentence of the Ordinary was, that *Tredennick* ſhould have the Seat to him and his Heirs, and that none ſhould diſturb him on pain of Excommunication, which is unreaſonable, and by ſuch Sentence he and his Heirs ſhould have it, though they were no Inhabitants within the ſame Pariſh. *Rolls caſes. 2 part. f.* 289.

CHAP. V.

The Churchwardens Office about Reparations and Rates.

36. THeſe Officers are to ſee that the Church and Churchyard be well repaired and kept clean: and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for regiſtring Chriſtnings, Weddings and Burials in, Fonts, Pulpits, Tables, Cheſts for Alms, Communion Cups, Ornaments and other Fur-

niture, and a Cheſt with three Locks and Keys for putting the ſame in: and they are alſo to provide Bread and Wine for the Sacrament according to the number of the Communicants. And for theſe purpoſes they may rate the Pariſh for mony to do it, for which ſee 37 *H.* 6. 30. 11 *H.* 4. 12. 11 *H.* 7. 27. 12. *H.* 7. 10. *F. N. B.* 54. 91. *Canon* 20. 70, 80, 81, 82, 83, 84, 85.

37. Upon making of Rates for Reparations, *&c.* they are to be done by the Churchwardens with the Aſſent of the greater part of the Pariſhioners, and upon a general warning given before they aſſemble for that purpoſe; and note, that the Eccleſiaſtical Court hath cognizance of the Reparation of the body of the Church. See *Jeoffry*'s caſe. *Co.* 5. *lib. Rep. f.* 67. *& Rolls* caſes, 2 *part. f.* 289. *M.* 31, 32. *El. B. R.*

38. If a man ſtay and inhabit in one Pariſh, and have Lands in another Pariſh which he occupies there, he may be charged for ſuch Lands for the Reparation of the Church of the Pariſh where the Lands lye: becauſe he may come there when he pleaſes, and he is to be charged in reſpect of the Lands.

Co.

Co. 5. *Rep.* 4. 67. *M.* 31, *&* 32. *El. B. R. Jeoffry's* caſe, *& Tr.* 11. *Jac. C. B. Andrews* caſe, *per Curiam Rolls caſes*, 2 *part. f.* 289.

39. But if an Inhabitant of a Pariſh Leaſe out his Lands which he hath in another Pariſh, reſerving Rent, then he ſhall not be charged in the Pariſh where the Land lies in reſpect of the Rent, becauſe there is a Pariſhioner and Inhabitant which may be charged. *Co.* 5. *Rep.* 4. 67. *b. M.* 5. *Jac. C. B. Rolls caſes* 2 *part. f.* 289. and ſee *P.* 41. *El. B. R. Paget* and *Crumpton's* caſe. *Cro. Rep.* 1 *part. f.*

40. Neither can a man who Inhabits in one Pariſh, and occupies Lands in another Pariſh, be charged in that Pariſh where the Lands lie for the Ornaments of that Church according to his Land; for the Inhabitants only ought to be rated for them, and ſo it was adjudged by the Court. *M.* 20 *Jac. B. R. Rolls* caſes, 2 *part. f.* 291. *Winches Rep. fo. per Yelverton.*

41. Neither can a man be charged in the Pariſh where he doth inhabit, for the Lands which he occupieth in another Pariſh, towards the Reparation of

the Church in the Parish where he liveth; because then he might be twice charged, for he may be charged in the Parish where the Land lies, as is shewed before, *Sect.* 38. P. 16. *Jac. B. R.* Sir *William Butler Verſ. Rolls eaſes, 2 part. f.* 289. *Co.* 5. *Rep. f.* 67.

42. If a petty Chapman take a Stall in the waſte of a Mannor for Rent, within the Market for two or three hours every Market day to ſell his commodities, the Market being held there one day every week, but he inhabits in another Pariſh, here he cannot be rated to the Reparation of the Church for ſuch Stall or Standing. *M.* 20. *Jac. B. R.* between *Holms* and the Churchwardens of *Kettering* in *Northamptonſhire*, reſolved, and a Prohibition granted accordingly. *Rolls Caſes, 2 part. f.* 289.

43. If a Citizen of *London* build an houſe in the Pariſh of *A.* and inhabit there in the time of Sickneſs in *London*, and hath not any Land in the Pariſh, and afterwards he is aſſeſſed 20*s.* for the Reparation of the Church, where others that have an 100 Acres of Land in the ſame Pariſh pay but 6 *d.* yet notwith-

withſtanding no Prohibition lies in this caſe in the Court Chriſtian, becauſe they have the Juriſdiction of the thing; and therefore he muſt be ordered according to their Law. *M.* 5. *Jac. C. B.* Sir *Robert Ley*'s caſe. *Rolls Caſes, 2 Part. f.* 289.

44. If there be a Chappel of Eaſe within a Pariſh, and one part of the Pariſh have uſed time out of mind, *&c.* to repair the Chappel themſelves without the reſt of the Pariſhioners, and there to hear ſervice, and Marry, and all other things, but only that they bury at the Mother-Church; here notwithſtanding they ſhall not be diſcharged of the Reparation of the Mother-Church, but muſt contribute to it; for the Chappel was ordained only for their eaſe. *M.* 13. *Jac. C. B.* between the Churchwardens of *Aſhton* and the Inhabitants of *Caſtle-Bromage. Rolls* 2. *part. f.* 289. & *Hob. Rep.* 4. 66.

45. If all the Pariſhioners in the Pariſh are not rated, but ſome are, and ſome are not; and thoſe who are, rated are ſued in the Eccleſiaſtical Court, yet they cannot have a Prohibition, but muſt plead this matter in the Spiri-

tual Court. *M.* 11 *Jac. B. R. per curiam. Rolls* caſes, 2 *part. f.* 291.

46. If the greater part of the Pariſhioners of a Pariſh where there are four Bells, agree that there ſhall be made a fifth Bell, and it is made accordingly, and they make a Rate for payment for it, this ſhall bind the remainder of the Pariſhioners, although they did not agree to it; for otherwiſe any obſtinate perſons might hinder any thing intended, and what is fit for the Ornament of the Church. *M.* 2 *Car.* 1. *B. R. Rolls caſes*, 2 *part. f.* 291.

47. Note, That a man ought to be rated according to his perſonal Eſtate, and not according to his Lands for the Ornaments of the Church. *M.* 20. *Jac. B. R. Rolls* caſes, 2 *part. f.* 291.

48. Theſe things hereafter mentioned are accounted Church Reparations, *viz.* the Walls of the Church and Church-Steeple, the Church-yard Walls of Stone or Brick, the Windows of Stone or Brick, and the Bars of Iron, and Glaſs, the Roof of Timber, with Laths, Nails, Prigs, Dogs and Bolts of Iron, the covering of Lead, Tile, Slates, or Shingles, the Floor with Stone or paving

paving Tile, the Doors of Timber with Locks, Keys, Ridges, Hooks and Nails, the furniture of the Steeple with Stairs, Floors, Bells, Wheels and Ropes, the Pulpit and the Pews or Seats, not made by private men, and all theſe are to be performed by Land-Rate *&c.* though the occupier lives in another Pariſh, as afore ſhewed.

49. But theſe hereafter mentioned are not properly Church-Reparations, *viz.* the Communion Table, with the Coverings thereof, the Communion Cups, the Bread and Wine for the Communicants, the Bible and other Books appointed to be in Churches, the waſhing of the Communion clothes, the Candles for the Lecture days, the Surplice, the Pulpit Cloth and Cuſhion, the Clerk and Sextons wages, and expences of the Churchwardens and Sidemen at the Viſitation; and therefore all theſe are to be performed Ratably by the Inhabitants of the Pariſh, and not by out dwellers.

CHAP. VI.

Some Caſes wherein the Churchwardens are equally concerned with the Conſtables and Overſeers of the Poor. See fol. 32, 33, 34. their Power againſt Conventicles.

50. IF any of their own authority ſhall wilfully diſturb any Miniſter in his Preaching or Reading of Divine Service, the Churchwardens or Conſtables may of their own Authority apprehend ſuch perſons, and bring them to a Juſtice of Peace to be dealt with according to Law. 1. *Mar. c. 6.* See *the Conſtables Guide, ch. Diſturbing of Miniſters, &c.*

51. Theſe Officers are to joyn with the Overſeers of the Poor in the execution of their Office, for they have an equal Authority and charge with them in the execution of the whole Office; therefore ſee afterwards in the Office of *Overſeers of the poor, ch. 1.*

52. If a Rogue be brought to theſe Officers, they muſt receive him and look to him, or forfeit 5 pound, and be bound

bound to the good behaviour, *Stat.* 32. *El.* See *Conſtables Guide, ch. Rogues*, &c.

53. Theſe Officers, by Warrant from a Juſtice of Peace, may levy the forfeiture for Curſing and Swearing which is twelve pence upon the Offenders Goods. 21 *Jac. c.* 20. 3. *Car.* 1 *ch.* 4. See *Conſtables Guide, ch. Swearing*, &c.

54. If any forfeiture be by any offence about killing Hares, Pheaſants, or Partridges, and the Juſtice of peace force the payment thereof to theſe Officers, they are to ſee it imployed to the uſe of the poor of the Pariſh. 1 *Jac. ch.* 27.

55. Theſe Officers are to preſent the Offences againſt the 1 *Jac.* for ſuffering Tipling and Drunkenneſs, and ſelling by unlawful meaſure, and are to execute the Warrants from the Juſtices concerning the ſame, 1 *Jac. ch.* 9. 1 *Car.* 1. *ch.* 4. 21 *Jac. ch.* 7. 4 *Jac. ch.* 5. See *Conſtables Guide, ch. Alehouſes*, &c.

56. Theſe Officers alſo are to execute the Warrant againſt ſuch as profane the Lords Day by Sports, &c. 3 *Car.* 1. *ch.* & *ch.* 22. See *Conſtables Guide, ch. Profanation of the Sabbath.*

57. These Officers also are to execute the Warrants against such as destroy Fish unlawfully. 3 *Jac. chap.* 12. *See Constables Guide, c. Fish,* &c.

58. These Officers are also to joyn with the Constables, in the making of Rates for the Relief of poor maimed Soldiers and Mariners, and for conveying Prisoners to the Goal, and to execute the Warrants for the same. 43 *El.* 14 *El. ch.* 5. 3 *Jac. c.* 10. *See Constables Guide. ch. Quarter Moneys, & c. conveying Prisoners to the Goal.*

59. These *O*fficers are also to joyn with the Constables in the chooſing of *S*urveyors for the High-ways, and in the setting down of days for the work, and in the over-sight of the High-Constables Account for the Monies they do receive upon any forfeiture about the High-ways; and they may also with the help of two Justices of the Peace (*Quor. unus*) force High-Constables that have received any monies forfeited for default of High-ways, to account for it, and pay in, what is in their hands to be imployed about the High-ways; and these *O*fficers also are to execute the Justices Warrants for all

all ſuch penalties about cleanſing the ſtreets and repairing High-ways, as are forfeited by the 14 *Car.* 2. *ch.* 2. *vide* 2. 3. *P. & M. ch.* 8. *Vid. Conſtables Guide, c. High-ways.*

60. Theſe *Officers* have equal Authority with the Conſtable or *Overſeers* of the *Poor*, about the ſeizing of foreign Cattel Imported into *England*, &c. 18 *Car.* 2. *ch.*2. *V. Conſtables Guide, ch. Iriſh Cattel.*

61. Theſe *Officers* together with the *Overſeers* of the poor, are to execute the Juſtices Warrant for levying the penalty of five pound upon the parties Goods that is not buried in Woollen, which penalty is to be imployed to the uſe of the poor of the *Pariſh*, where ſuch party is buried. 18 *Car.*2. *ch.* 4.

62. Theſe *Officers* in the ſeveral *Pariſhes* within the Cities of *London* and Borough of *Southwark*, &c. upon every Tueſday or Wedneſday in *Eaſter* Week, together with the Conſtables, *Overſeers* of the poor, and Surveyors of the High-ways of every Pariſh reſpectively, or the greater number of them, giving notice unto, or calling

calling together ſuch other Inhabitants of their reſpective Pariſhes, as have formerly born the like Offices, they or the greater number of them are to make choice of, and ſhall nominate and appoint two or more able perſons, that are Tradeſmen of their Pariſh, to be Scavengers for the Streets, Lanes, and other open paſſages of each Ward or Diviſion within the ſaid Pariſh for the year then next following, and untill others be choſen and ſetled in their place. 14 *Car.* 2 *c.* 2.

CHAP. VII.

The Churchwardens Office about paſſing Accounts, together with the Heads of moſt of the things which they are to preſent in the Viſitation Court.

63. ALL Churchwardens at the end of their year, or within a month after at the moſt, are before the Miniſter and Pariſhioners to give up a juſt Account of ſuch Monies as they have received, and alſo what particularly they have beſtowed in Reparations or

or otherwiſe for the uſe of the Church: And laſt of all, going out of their Office, they muſt truly deliver up to the Pariſhioners whatſoever Monies or other things of Right belonging unto the Church or Pariſh which remains in their hands, that it may be delivered over by them to the next Churchwardens by Bill Indented. *Vide Canon* 89.

64. And if they refuſe to do this, they may be preſented at the next Viſitation Court for it, or the ſucceeding Churchwardens may have an Action of Account againſt them by the Common Law, and compel them to give an Account, and anſwer for their doings during the time of their Office; And if they have done the Pariſh any wrong, to make amends and ſatisfaction for the ſame to the uſe of the Pariſh for the harm it hath received by their default: And in this Account the old Officers ſhall have allowances for all the needful Sums of Mony laid out or ſpent by them, either upon the Reparations of the body of the Church, Tower, or Bells, *&c.* or for Relief of the Priſoners in the Gaol, or otherwiſe where the Law doth injoyn them

them to pay or disburse any mony. *Vid.* 8 E. 4. *f.* 6. *b.*

65. Now as touching the Churchwardens Presentments. Note, That no Churchwardens, Questmen or Sidemen of any Parish shall be inforced to exhibit their presentments to any having Ecclesiastical Jurisdiction, above once in every year, where it hath been no oftner used, nor above twice in any Diocess whatsoever, except it be at the Bishops Visitation; for the which presentments of every Parish, Church, or Chappel, the Register of any Court where they are to be exhibited, shall not receive in one year above four pence, under pain for every offence therein, of suspension from the execution of his *Office* for the space of one month *toties quoties*, but the Churchwardens may voluntarily upon their own account present oftner if they please. *Canon.* 116.

66. But no Churchwardens, Questmen or *Sidemen*, shall be called or cited, but only at the said time or times before limited, to appear before any Ecclesiastical Judge whatsoever, for refusing at other times to present any faults

faults committed in their Pariſhes, and puniſhable by Eccleſiaſtical Laws; neither ſhall they, nor any of them, after their Preſentments exhibited, at any of thoſe times be any further troubled for the ſame, except upon manifeſt and evident proof it may appear, that they did then willingly and wittingly omit to preſent ſome ſuch publick crime or crimes as they knew to be committed, or could not be ignorant that there was then a publick fame of them, unleſs there be very juſt cauſe to call them for the Explanation of their former Preſentments: In which caſe of wilfull omiſſion, their *Ordinaries* ſhall proceed againſt them in ſuch ſort, as in cauſes of wilfull perjury in a Court Eccleſiaſtical it is already by Law provided *Canon* 117.

67. Note, That one of the two times for Preſentments is always to be about a Week or a Fortnight after *Eaſter*, at which time alſo the old Churchwardens are to leave the *Office*, and new ones are to come in, but the new ones are not to be ſworn till the old ones have given in their Preſentment, and every Parſon or Vicar, and in the lawfull

ful abſence of the Parſon or Vicar, then their Curates and Subſtitutes are to joyn in every Preſentment with the Churchwardens, Sidemen and Queſtmen; and if the Churchwardens, &c. refuſe to preſent, then every ſuch Parſon and Vicar, or in their abſence, as aforeſaid, their Curates may themſelves preſent to their Ordinaries at all ſuch times, and when elſe they think meet. *Canon*, 113, 118.

68. The Heads of the Articles, moſt commonly exhibited to the Churchwardens to make their preſentments upon, are as followeth:

69. *Whether their Church and Chancel, Bells and Ropes be good and well repaired, and the Ten Commandments, Lords Prayer, and Creed, drawn out in fair Letters, the Kings Arms ſet up, Aſſeſsments made for the Repair of the Church, and who refuſes to pay? If they have a Font, Communion-Table, Carpet, Table-cloth, Flaggons with Cups, and Cover for Bread and Wine, Reading Desk, Pulpit with a Cuſhion and Covering fit for it, a Common Prayer-Book of the largeſt Volume; and the Bible of King* James's *Tranſlation in Folio, with a Book of Homilies, and Book of Canons, and*

a

a Surplice? If the Tombs, Monuments and Grave-Stones be ſafely kept from removing and breaking; a Book of Parchment for Regiſtring, Chriſtnings, &c. A Cheſt with three Locks to put the ſame and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibited in Marriage, ſet forth 1563. *hung up in the Church? And if the Parſonage-houſe and out-houſes be in good repair; and the Churchyard well fenced to keep out Swine, &c.*

70. *Then, whether their Parſon, Vicar, or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Holydays, Preach every Sunday, or read a Homily, Catechiſe, obſerve the* 5. November, 30. Jan. *and* 29. May, *and keep Perambulations, Preach ſound Doctrine, and vent no Sedition againſt the King or Government, Celebrate the Lords Supper three times every year at leaſt, whereof at* Eaſter *for once; Baptiſe Infants with Godfathers and Godmothers, viſit the Sick, and pray with them, Bury the Dead according to the Book of Common Prayer, Marry none Clandeſtinely, Preach in his Gown, be a man of a ſober and chaſte life, a Peace-maker amongſt his Neighbours, and one that takes*

care

care to reduce Sectaries, Popish Recusants, Separatists and Refractory persons to the Obedience and Doctrine of the Church, and reads the Book of Canons to the People at least once every year, and the 39 Articles twice every year, according to his Majesties Letters published 1662?

71. Then, Whether all their Parishioners of due Age, resort to the Church to Divine Service, behave themselves reverently there, Kneel, Stand up, and make answer according to the Rubrick of the Common Prayer Book? Whether any work or sell wares on Sundays or Holydays, or Vintners, Victualers, Innkeepers, or others, receive any into their houses to tipple on those days? Whether any Marry within the probibited Degrees, be Adulterers, Fornicators, Blasphemers, Swearers, Drunkards, or Sorcerers, and if all above sixteen years old receive the Lords Supper at least three times every year, Easter to be one? and whether any keep their Children unbaptized, Women after Delivery in due time come not to be Churched, or any bring not their dead to be buried after the Service of the Church, keep Conventicles, have been married without Banes or Licence at unlawful hours? and whether their Almshouses, Hospital, School, or Spittle,

tle, if they have any, be well and godlily uſed, or any thing detained from it? What Legacies given to pious uſes; and if the Pariſhioners be placed into Pews or Seats, without offence or contention.

72. *And laſtly, Whether their Pariſh Clerk and Sexton (if they have any) be duly choſen, can write and read, be of an honeſt life, and make the Reſponſes to the Hymns and other Suffrages? and if the Schoolmaſter, and Uſher, Phyſician, Chirurgion, or Midwife, (if they have any of them) teach or practiſe without Licence? if the Churchwardens be duly choſen in the Week after* Eaſter, *by the Parſon and Pariſhioners, according to the Canon or cuſtom? and if the old Churchwardens have been diligent to keep the Church in good Repair, to preſerve all the Furniture thereof, and walk out of the Church uſually about the midſt of Divine Service, to ſee who are abroad in the Alehouſe, or elſewhere abſent or evilly imploy'd*

73. Theſe are the heads of moſt of the Articles that are inquired of at the Viſitation Courts; but it is probable there may be ſome ſmall alteration, according to the uſe of the ſeveral Dioceſſes in ſeveral places.

FINIS.

A GUIDE FOR Overſeers of the Poor.

CHAP. I.

Of the Antiquity of the Officers, their Qualifications, and how and when to be choſen.

1. THis Office of Overſeers of the Poor, is a Name and Office of great Excellency and Antiquity, and may beſeem the beſt and not the meaneſt men in a Pariſh; for this is not the leaſt Office, to be called *Overſeers of the Poor*; for as God himſelf hath a ſpecial reſpect to the miſeries of the Poor, ſo they be like God which provide for the neceſſities of the Poor 2. Now

2. Now it is certain, that the Antiquity of this Office is above ſixteen hundred years ſtanding, as appears by holy Writ; for we find St. *Stephen* the Proto-martyr, a man full of Faith and of the Holy Ghoſt, and *Philip*, and *Prochorus*, and *Nicanor*, and *Timon*, and *Parmenas*, and *Nicolas* a Proſelyte of *Antioch*, choſen to this Office, as appears *Acts* 6. 5. and ſee *Acts* 20. & 28. & 1 *Cor.* 16. 2, 3.

3. As for the qualifications of theſe Officers, they ought to be ſubſtantial perſons, having competency of Wealth, Wiſdom, a good Conſcience, and of honeſt report; ſee *Acts* 6, & 3. *Dalt. J. P. c.* 40. *f.* 93.

4. Now theſe Overſeers of the Poor, here with us in *England*, are certain Officers appointed yearly to be joyned and aſſiſtant to the Churchwardens of the Pariſh, in the over-ſight and ordering of the Poor of the Pariſh, and they are to be appointed by two or more Juſtices of the Peace of the County (whereof one to be of the *Quorum*) dwelling in or near the Pariſh or Diviſion, &c. who are yearly under their Hands and Seals, at *Eaſter*, or within a month

month after to appoint 4, 3, or 2 ſubſtantial Houſholders, (according to the greatneſs of the Pariſh to be joyned with the Churchwardens of the Pariſh) and all theſe together are to look to the Poor of the Pariſh; for the Churchwardens of the place have an equal power and charge with the Overſeers, and may be puniſhed for their neglect, if they refuſe to meddle herein, 43 *El.* 2. 21. *Jac.* c. 28. *Dalt. J.P.* c. 40. *f.* 93. *Wingate's Stat. Tit. poor People.*

5. The major part of theſe Officers, without the reſt of them may do any thing belonging to their Office. But they are to have the allowance and conſent either in particular or in general of Two Juſtices of the Peace (*Quor. unus*) to every thing they do about their Office. And theſe Officers, or ſuch of them as ſhall not be let by juſt excuſe, (to be allowed by two Juſtices) are to meet monthly in the Church on Sunday after Evening Prayer, and there they are to conſider of ſome meet directions about their Office, and they are to uſe all poſſible diligence in their Office, on pain to forfeit for every ſuch Default twenty

ſhillings

ſhillings. 43. *El.* c. 2. *Wingat's Stat. Tit. Poor People.*

6. The Inhabitants of the Townſhips within the great Pariſhes of *Lancaſhire*, *Cheſhire*, *Derbyſhire*, *York-ſhire*, *Northumberland*, Biſhoprick of *Durham*, *Cumberland* and *Weſtmoreland*, are to take care for the Poor of their Townſhips and Villages only, and are yearly to chooſe Overſeers for the Poor within their ſeveral Townſhips and Villages: And theſe Officers ſhall have the ſame power in the place where they are choſen, for the relief of the Poor there, and forfeit the like penalties for their neglect, as ſuch like Officers for intire Pariſhes ſhall do. 14 *Car.* 2. *c.* 12.

7. And if it happen that Overſeers be not appointed according to the 43 *El.* then every Juſtice of Peace, or Head Officer of that Diviſion or Corporation ſhall forfeit 5 *l.* to be levyed by a Seſſions Warrant, and imployed to the uſe of the Poor of the Pariſhes where ſuch default is made, 43 *El. ch.* 2 *Wingate's Stat. Tit. Poor people.*

CHAP.

CHAP. II.

Of the ſeveral Sorts of Poor People, and what Poor the Overſeers are to provide for and relieve, or ſet to work.

8. NOte, That there are three ſorts or degrees of Poor, as firſt the Poor by impotency and defect, as the aged and decrepit that are paſt their labour; the Infant Fatherleſs and Motherleſs, and not able to work, the perſon naturally diſabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, *&c.* not being able to work, and the perſon viſited with grievous ſickneſs or diſeaſe, though caſually, yet thereby for the time being impotent. All theſe the Overſeers are to provide for, that they have neceſſary Relief and Allowances proportionable and according to the continuance and meaſure of their maladies and needs, and of theſe it may be ſaid, *Si non paviſti, occidiſti: Dalt. J. P. c.* 40. *f.* 100.

9. Then Secondly, the Poor by caſualty, as a perſon caſually diſabled or maimed in his body, as the Soldier or

Labourer, &c. maimed in their lawful Callings, the Houſholder decayed by caſualty of Fire, Water, Robbery, Suretiſhip, &c. and the poor man overcharged with Children; All theſe (and ſuch like others) having ability and ſtrength of body, but not ſufficient means to maintain themſelves, are to be ſet to work by the Overſeers, and being not able to live by their work, they are in Charity to be relieved in ſome reaſonable proportion, according to their ſeveral wants and neceſſities. *Dalt. J. P. ch.* 40. *f.* 100.

10. Then laſtly, The thriftleſs poor, as the riotous and prodigal perſon, that conſumes all with play or drinking, &c. the diſſolute perſon, as the Strumpet, Pilferer, &c. the Slothful perſon that refuſeth to work, &c. and the Vagabond that will abide in no place or ſervice; and for all theſe the Houſe of Correction is the place where they are to be ſent to, and being of able bodies there they are to be held to hard labour, and to maintain themſelves by their labour and work, without charging the Town or Countrey for any allowance. *7 Jac. ch.* 4. *Dalt. J. P. ch.* 40. *f.* 101.

11. But

11. But it ſeemeth that if any of theſe laſt ſort of Poor happen to prove impotent, and alſo in caſes of manifeſt extremity, then they are to be relieved by the Town. *Dalt. J. P. c.* 40. *f.* 101.

12. If the Parents be able to work, and may have work, they are to find their Children by their labour, and not the Pariſh; but if they be overcharged with Children, they may have help, by having ſome of their Children put out Apprentices by the Overſeers. *Dalt. J. P. c.* 40. *f.* 98.

13. The Father, Grandfather, Mother, Grandmother, and the Children and Grandchildren of every poor impotent perſon not able to work, being of ſufficient ability, ſhall relieve ſuch poor perſons in ſuch manner, as the Juſtices of Peace of that County (where ſuch ſufficient perſon dwelleth) at their General Quarter Seſſions ſhall Aſſeſs; and if ſuch perſon refuſe to abide the order they forfeit 20 *s.* for every month to the poor of the Pariſh, which forfeiture is to be levyed by the Churchwardens or Overſeers, or one of them, by Warrant from any two Juſtices of the Peace (*Quor. unus*) within their Limits,

by diſtreſs and ſale of the Offenders Goods, and for want of diſtreſs, any two ſuch Juſtices may commit the Offender to priſon, there to remain without Bail till the ſaid forfeiture be paid. 43 *El.* 2. *c.* 2. *Reſol. Judges* 16, 17. *Dalt. J. P. c.* 40. *f.* 98.

14. But note, That if a man marry a Grandmother that hath no Eſtate, the Grandfather in Law is not chargeable: But if ſhe hath an Eſtate cauſed without ſuch marriage, or that comes after marriage by deſcent or otherwiſe to her, here he may be charged: But where they have raiſed themſelves to an Eſtate by their own Induſtry there it is doubtful. But in no caſe ſhall he be charged longer than his wife lives; and it ſeems alſo Baſtard Children are not within this Law, neither can the Juſtices do any thing herein againſt a man that lives out of their County. See *Boulſtred's Rep.* 2. *part. f.* 245, 246, 247.

15. No Poor may beg but in their own Pariſh, and there by licence of the Overſeers of the Poor; and they may not licence them to beg in the High ways there, and without the licence of the Overſeers they may not beg at all. *Reſ. Judges*

Judges 15. *Dalt. J.P. c.*40. *f.*99. 39 *El.*3.

16. No Inhabitants may ſerve any Poor at their Door, but thoſe of their own Pariſh, that have licence from the Overſeers of the Poor to beg there, under pain of 10 *s.* for every time they do ſo. 1 *Jac.* 7. *Dalt. J. P. ch* 47. *fol.* 129.

17. Theſe Officers to make proviſion for a poor man that wants an Houſe (but not for a common Herdſman or Shepherd) with conſent of the Lord of the Mannor firſt had in writing under his Hand and Seal, either by themſelves, or with a Seſſions Order, may erect a Cottage upon any part of the Waſte of a Mannor, and lodge Inmates therein, notwithſtanding the *Stat.* 31 *El.* 7. But ſuch Cottage may not be afterwards employed otherwiſe than to lodge impotent perſons there; for if it be, then it falls within the penalty of the 31 *El.* aforeſaid, 43 *El. c.* 2. *Wingate's Stat. Tit. Poor People.*

18. All ſuch perſons married or unmarried, having no means to maintain them, uſe no ordinary and daily Trade of life to get their living by, and ſuch perſons alſo as can get no work, are to

be ſet on work by the Overſeers; and any one Juſtice of Peace may ſend to the Houſe of Correction, or Common Gaol, ſuch as ſhall not imploy themſelves to work, being appointed thereto by the Churchwardens and Overſeers of the poor of the Pariſh. 43 *El. c.* 2. *Dalt. J. P. c.* 40. *f.* 93.

19. And to this purpoſe the Churchwardens and Overſeers of the Poor may by, and with the conſent of two or more Juſtices of the Peace (*Quor. unus*) *&c.* Set up, uſe, and occupy any Trade, Myſtery, or Occupation, only for the ſetting on work, and better relief of the Poor of the Pariſh, Town or Place, where they are Overſeers, *&c.* 3 *Car.* 1. *ch.* 4. *Dalt. J. P. ch.* 40. *f.* 94. *Wingate's Stat. Tit. Poor people.*

20. If a Stranger come into the Pariſh into any Tenement, under the yearly value of 10 *l.* The Overſeers may require ſufficient Security of him, for the diſcharge of the Pariſh, and if he refuſe, they may complain to the Juſtices of Peace within 40 days after the party comes there, and they may order him to do it, or otherwiſe remove him. 14 *Car.* 2. *ch.* 12.

CHAP.

CHAP. III.

The Duty of the Overſeers about putting forth and binding of Apprentices, with the form of the Indenture for ſuch purpoſe.

21. IN the putting out of Children Apprentices, there ought to be regard had to the Maſter, the Child, and the Parents. Firſt to the Maſter, that he be of ability and honeſty, otherwiſe by ſome device or hard intreaty they may provoke their Apprentices to depart or run away; and regard is alſo to be had to his Trade or Faculty, leſt the Apprentice conſume his time without learning any thing: Secondly, Regard is to be had to the Apprentices to put them out timely, and while they are young and tractable (ſo that they be above the age of ſeven years) otherwiſe by reaſon of their idle and baſe Educations they will hardly keep their Service or imploy themſelves to work: Then laſtly, Regard is to be had to the Parents to take away ſuch from them as are brought up to live idlely and

looſly, or elſe ſuch as are a burthen and charge to their Parents. *Dalt. J. P. ch. 40. f. 94, 95.*

22. Note, That the choice of theſe Apprentices are to be out of the pooreſt ſort of Children, whoſe Parents are the leaſt able to relieve them, and they are to be above 7 and under 15 years of Age, when they are firſt bound. *7 Jac. c. 3. Wingate's Stat. Tit. Poor People.*

23. And theſe Officers are to have the conſent of two Juſtices of the Peace in the placing out of ſuch Apprentices; and they may bind the Manchild till 24 years of age, and the Womanchild till 21 years of age, or till ſhe be married, which ſhall firſt happen: And theſe Apprentices may be bound to Weavers, Maſons, Dyers, Fullers, or any other Trade, as well as to Husbandry or Houſewifery. See *43 El. ch 2. Dalt. J. P. ch. 31. f. 83. Wingate's Stat. Tit. Poor People.*

24. Now this placing of Apprentices may be to any man, whom the Officers and Juſtices think fit to receive them, within the ſame Pariſh or elſewhere in other Pariſhes within the ſame Hundred either with, or without Money; there-

therefore it is fit in this caſe to conſider, if the Child be young, and the party to whom they place it is not very able, then they may give money, if they pleaſe, as the party and they ſhall agree. *Reſ. Judges* 1633. *Queſt.* 1.

25. All men that have, or may have uſe for Servants, as Knights, Clergymen, Gentlemen, and Yeomen, as well as Tradeſmen, are bound to take Apprentices; yea, though wealthy men Table themſelves, or live ſo privately, that they have no uſe for a Servant, yet they may be compelled to take them, or elſe to pay a ſum of money for putting them Apprentices elſewhere; and if they refuſe to pay the ſum impoſed upon them, Two Juſtices of the Peace may make their Warrant to levy the ſame by diſtreſs and ſale of the Offenders Goods. *Reſ. Judges*, 1633. *Queſt.* 4. *Poult.* 2. 4. *Dalt. J. P. c.* 40. *f.* 95.

26. Or the Refuſers to take Apprentices may be preſented and indicted for the ſame, upon the *Stat.* 43. *El. c.* 2. at the Aſſizes or Seſſions of the Peace. *Dalt. J. P. c.* 40. *f.* 95. *Reſ. Judges*, 1633. *Queſt.* 7.

27. An Apprentice put to a man in

reſpect of his Farm when his Leaſe expireth, the Apprentice ſhall go ſtill with the Farm, if the firſt Maſter be ſo pleaſed; otherwiſe it is where an Apprentice is put to a man in regard of his ability, or for other reſpects. And where any differences are between the Officers and the man that is to receive an Apprentice, about money, and what money ſhall be given or otherwiſe, here the Juſtices thereabouts, or, in their defaults, the Seſſions muſt end it. *Reſol. Judges*, 1633. *Queſt.* 2. *Dalt. J. P. c.* 40. *f.* 95.

28. If the Parents of Poor Children ſhall refuſe to let their Children be put forth Apprentices (without good cauſe ſhewed) ſuch Parents may be bound over by the Juſtices, to anſwer their ſaid Default, and if the Children ſhall refuſe, the Juſtices may ſend them to the Houſe of Correction, there to remain till they be content to be bound and ſerve. *Dalt. J. P. c.* 40. *&* 31. *f.* 96. *&* 78.

29. Note, that this binding muſt be by Indenture, and may not well be done by a Verbal Agreement; and the Indenture muſt be either between the

Ju-

Juſtices, Churchwardens, and Overſeers, or them, and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the form of the Indenture in the end of this Chapter; and he muſt be named by the name of Apprentice expreſly, or elſe he is no Apprentice, though he be bound. *Cromp.* 184. *Dalt. J.P. c.* 31. *f.* 82.

30. And this binding is as effectual to all purpoſes, as if the Children were of full age, and did bind themſelves by Indentures and Covenants; and all ſuch as are bound by the Overſeers, as aboveſaid, may ſafely be received and kept as Apprentices by their Maſters. 1 *Jac. c.* 25. 21 *Jac. c.* 28. *Dalt. J.P. c.* 31. *f.* 83. 3 *Car.* 1. *c.* 4. 5 *El. c.* 4. *Crompt.* 184. *b.*

31. Note, That money given, to put out poor Children Apprentices, is to be employed in Corporate Towns by the Corporations, and in other places by the Parſon or Vicar, together with the Conſtables, Churchwardens, and Overſeers of the Poor, or the moſt part of them; who ſhall not forbear or refuſe to employ the ſame accordingly, in pain to forfeit five marks, each of them

them ſo making default, to be divided betwixt the Poor of the Pariſh and the Proſecutor. 7 *Jac. ch.* 3. *Wingate's Stat. Tit. Poor People.*

32. And the party, taking any money with ſuch Apprentice, ſhall give good Security by Obligation to repay it at the end of ſeven years next enſuing the date of the ſaid Obligation, or within three months next after the end of the ſaid ſeven years; and if ſuch Apprentice ſhall die within the ſeven years, then within one year after his or her death; and if the Maſter, Miſtreſs, or Dame, happen to die within the ſeven years, then within one year after their death: ſo as the money may be employed in placing the Apprentice with ſome other of the ſame Trade, to ſerve out his time, at the diſcretion of the parties truſted as aforeſaid. 7 *Jac. c.* 3.

33. And the money ſo given ſhall be imployed within three months after the Receipt thereof, and if there ſhall not be apt perſons found in the places where it is given to the Apprentices, it ſhall then be imployed in the Pariſhes next adjoyning, by the parties that are truſted with it in the place where it

was

was ſo given, and there alſo Bond ſhall be taken, as afore is declared. 7 *Jac. ch.* 3.

34. Note, That if the Maſter ſhall put his Apprentice into Apparel, it is a Gift in Law, and he cannot afterwards take it away, though he ſhould part with his Apprentice. *Bro. Tranſgr.* 93.

35. An Apprentice cannot be diſcharged from his Apprentiſhip, but by 4 Juſtices of the Peace at the leaſt, and in open Seſſions, or elſe by the Agreement of the Maſter and Apprentice, and under his Maſters hand in writing. *Dalt. J. P. ch.* 31. *f.* 79.

36. The Form of theſe Indentures, mentioned before, is as followeth, *viz.* This Indenture made the 29 day of *September*, in the 20 year of the Reign of Our moſt Gracious Sovereign Lord *Charles* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, *&c. Annoq; Dom.* 1668. Witneſſeth that *J. W.* and *G. B.* Overſeers of the Poor in the Town of *Kirk-Leaventon*, and *J. R.* Churchwarden of the ſame Town, by and with the conſent of Sir *J. P.* Knight and Baronet, and *T. M.* Eſq; two

two of his Majeſties Juſtices of Peace for the North-Riding of the County of *York*, have by theſe preſents placed and bound *J. T.* (being a poor fatherleſs Child) as an Apprentice with *E. H.* of *Kirk-Leaventon* aforeſaid, Widow; and as an Apprentice with her the ſaid *E. H.* to dwell from the day of the Date of theſe preſents, until ſhe the ſaid *J. T.* ſhall come to the age of 21 years, or be married, which ſhall firſt happen, according to the Statute in that caſe made and provided; by and during all which time and term the ſaid *J. T.* ſhall the ſaid *E. H.* her Dame well and faithfully ſerve in all ſuch lawful buſineſs as the ſaid *E. H.* ſhall put her the ſaid *J. T.* unto, according to her power, wit, and ability, and honeſtly and obediently in all things ſhall behave her ſelf towards her ſaid Dame and Children, and all the reſt of the Family of the ſaid *E. H.* And the ſaid *E. H.* for her part promiſeth, covenanteth, and agreeth that ſhe the ſaid *E. H.* the aforeſaid *J. T.* in the Art and Skill of Houſewifery the beſt manner that ſhe can, or may, ſhall teach and inform, or cauſe to be taught and informed, as much

much as thereunto belongeth, and ſhe the ſaid *E. H.* knoweth; and alſo during all the ſaid Term to find unto her ſaid Apprentice, Meat, Drink, Linnen, Woollen, Hoſe, Shooes, Waſhing, and all other things needful or meet for an Apprentice. In witneſs whereof, *&c.*

37. Note, If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade, then he may be bound till 24 years of Age, as is ſhewed before in this Chapter.

CHAP. IV.

Several Caſes about Settlements, and alſo touching Baſtards, &c.

38. NOte, There have been formerly many Controverſies, what time ſhould be accounted a Legal Settlement; but now all Objections in that point are anſwered; for it is appointed by the 14 *Car.* 2. that 40 days ſhall be accounted a Legal Settlement; but then this Settlement ought neither to be obſcure, interrupted, or brought about by practice.

39. As

39. As touching Setling of Poor People; Note, That the Juſtices are to meddle with none but thoſe who are impotent, and ſuch as are like to be chargeable to the place where they are. *Boulſtr. Rep.* 1. *part.* 347.

40. And as to this, know that it is enacted by the 14 *Car.* 2. *c.* 12. That if any Stranger come into a Pariſh to ſettle there in any Tenement, under 10 *l.* a year, and he refuſe to give ſuch Security for the Diſcharge of the Pariſh as two Juſtices ſhall think fit; then any two Juſtices (*Quor. unus*) may upon complaint to them made by the Churchwardens or Overſeers within 40 days after the Stranger comes into the Pariſh, make their Warrant to ſend him to the place, where he was laſt legally ſetled as a Native, Houſholder, Sojourner, Apprentice, or Servant 40 days or more; ſo that by this, it ſeems to be the opinion of this Parliament, that no man that Rents 10 *l.* a year, or above, is to be accounted ſuch a poor man as to be removed by order of the Juſtices: where any perſon finds himſelf aggrieved by the two Juſtices order, he may appeal to the next Quarter

ter Seſſions held for the County for his relief. 14 *Car.* 2. *ch.* 12.

41. But any perſon may go into any County, Pariſh, or place to work in time of Harveſt, or at any time to work at other work, ſo as they carry with him or them a certificate from the Miniſter of the Pariſh, one of the Churchwardens, and one of the Overſeers of the Poor, that they have a dwelling Houſe wherein they inhabit, and that they have left Wife and Children, or ſome of them there, and is declared an Inhabitant there; and in ſuch caſe, if the perſon ſhall not return to the place aforeſaid, when his work is done, or ſhall fall ſick or impotent, while he is in the ſaid work, yet this ſhall not be accounted a Settlement; but any two Juſtices may ſend the perſon or perſons to the place or places of his or their Habitation; and if any perſon ſhall refuſe to go, or ſhall not remain in the Pariſh where he ought to be ſettled, then the Juſtices may ſend ſuch perſons to the Houſe of Correction, there to be puniſhed as a Vagabond, or to a publick Workhouſe to be employed in a work or labour. 14 *Car.* 2. *c.* 12.

This

This Statute, as to the point aforeſaid, is to continue to the end of the firſt Seſſions of the next Parliament.

42. Note, That no man but a Vagrant Begger, ought to be ſent out of any Pariſh to the place of his birth or laſt habitation; for if any refuſe to work in the Pariſh where he is ſetled, or to work for the wages aſſeſſed, then he is by the Juſtices to be ſent to the Houſe of Correction. *Co. 2. part. Inſt. f. 730. 7 Jac. c. 4. Reſol. Judges, 9 Dalt. J. P. c. 47. f. 126.*

43. If a Scholar in the Univerſity, or in a Grammar School begin to be ſuſpect, he may be, or if he doth become impotent, and is like to be a charge to the Pariſh where he is, he muſt be ſent to his Parents if he have any, otherwiſe to the place where he was laſt legally ſetled before he came to School. *Reſ. Judges, 1633. Sect. 31.*

44. If one be born, and live 20 years in *A.* and then go to *B.* and there live in a Houſe and pay his Rent, and after he comes to *C.* and there works 20 Weeks as a Labourer in a Quarry of Stones, where he breaks his back, and becomes impotent, and there is taken vagrant

vagrant and begging, in this caſe he muſt be ſent to *A.* the place of his birth, and there muſt be provided for. *Reſ. Judges* 14 *Car.* 1.

45. If a man that hath a Wife and Children, take an Houſe in one Pariſh for a year, and during this time he is illegally forced out of his Poſſeſſion; then he takes an Houſe as Inmate in another Pariſh, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his Wife is delivered of another Child: in this caſe they are all to be ſent to the Pariſh out of which they were firſt illegally forced. *Reſol. Judg.* 1663. *Sect.* 24.

46. One born in *D.* left that place for the ſpace of 20 years, then lived in *S.* took an houſe and paid rent, and left that place alſo 6 or 7 years, and then came to *L.* in another County, and there was 20 weeks, did work, and there became impotent, and did wander and beg in the ſame place, and was taken as a Vagrant, and it was ordered he ſhould be paſſed and ſetled at *D.* where he was born, by the Judges at

Wor-

Worceſter Aſſiſes. 14 *Car.* 1. *Boulſtr. Rep.* 1. *part. f.* 357.

47. No Child under the Age of 7 years ſhall be adjudged a Rogue within the *Stat.* 39. *El. ch.* 4. But it ſeems ſuch Children vagrant and begging muſt be ſent and placed with the Father or Husband of the Wife; and if he be dead, then with the Mother (where ſhe was born, or laſt dwelt by the ſpace of one year) and ſuch Children, once thus ſetled or placed, muſt there remain, and not be ſent from thence to their place of birth, though after their Parents dye or run away, or that the ſaid Children grow above the age of 7 years; yea, though the ſaid Children after beg and prove vagrant in the Town, for there they muſt be ſet to labour by the Overſeers of the Poor. *Reſ. Judg.* 4, 9, 10. *Poult. Vag.* 2. *& Dalt. J. P. ch.* 47. *f.* 125.

48. But Children above 7 years of age, going about vagrant or begging in the Country, ſhall be puniſhed as Rogues, and ſent to their place of birth. *Dalt. J. P. c.* 47. *f.* 125. *& Reſol. Judg.* 4. 39. *El. c.* 4.

49. The Wife, being a Vagrant Rogue,

Rogue, muſt be ſent to her Husband, though he be but a Servant in another Town; and where the Husband and Wife have an Houſe, (though as an Inmate) and either of them Rogue about, in this caſe they are to be ſent to the place where the houſe is. *Dalt. J. P. c.* 47. *f.* 125. *Reſ. Judges* 3, & 5.

50. The Rogue, whoſe place of birth or laſt dwelling cannot be known, having Wife and Children under 7 years of age, they muſt go with the Husband to the place where they were laſt wilfully ſuffered to paſs through without puniſhment, where the Children muſt be relieved by the work of their Parents, though the Parents be committed to the Houſe of Correction; and if the Rogue have Children above 7 years of age, that Rogue about with him, then they are to be ſent to the Houſe of Correction alſo with the Parents, and when they come out again, then to their ſeveral places of births. *Dalt. J. P. c.* 47. *f.* 123. and *Sheppard's Guide* for *J. P. pag.* 252. *Reſ. &c. b.*

51. If I live in a Houſe in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this caſe

caſe my Children ſhall be in *A.* but if I have an Houſe in *B.* they ſhall be placed there. *Dalt. J. P. c.* 40. *f.* 99.

52. *A.* being a Wanderer with three Children born in three Pariſhes comes to *Dale* with them to her Siſter, and there dyeth ſhortly after, here the Children muſt be ſetled in the ſeveral Pariſhes where they were born, and not in the Pariſh where the Mother dyed. *Boulſtr. Rep.* 2. *part.* 351.

53. No man is to be put out of the Town where he dwelleth and is lawfully ſetled, nor to be ſent to his place of birth, or laſt Habitation, but a Vagrant Rogue, nor to be found by the Town, except the party be impotent, but they ought to ſet themſelves to labour, if they be able and can get work; And if they cannot get work, then the Overſeers are to ſet them to work: And if in ſuch caſe ſuch perſons wander abroad begging out of the Pariſh, then they may be ſent as Vagabonds (from the place where they ſhall be taken wandring or begging) to the place of their birth. *Dalt. J. P. c.* 40. *f.* 99.

54. If a Maid Servant be gotten with Child at *A.* by her Fellow Servant (or by

by another Man of the ſame Town) and after both their Services ended, they marry, and then the young man is retained at *B.* and afterwards the Woman is delivered of her Child, in this Caſe the with her Child are to be ſent to the Father at *B.* and there muſt be ſetled. *Dalt. J. P. c.* 40. *f.* 99.

55. If any diſturbance be made to any Settlement lawfully ordered by the Juſtices, either by the Conſtables refuſing to receive and convey a Rogue where they ought to do it, or by the Churchwardens and Overſeers of the Poor in refuſing ſuch an one as is duly ſent to be ſetled there, in ſuch caſe they forfeit 5 *l.* by the 39 *El. c.* 4.

56. If a woman unmarried be hired Weekly, Monthly, half Yearly, or Yearly, in one Pariſh, and there be gotten with Child, and then goeth into another Pariſh, and there is ſetled in Service, or otherwiſe for two or three months, and then ſhe is diſcovered to be with Child, in this caſe ſhe and her Child ſhall be ſetled in the Pariſh where ſhe then is, and muſt not be ſent to the Pariſh whence ſhe came. *Reſol. Judges* 1633. *Sect.* 12.

57. If

57. If a Woman be delivered of a Baſtard Child in one Pariſh, and then go into another Pariſh with her Child, in this caſe the Child after it is nurſed, is to be ſent to and ſetled in the place where it was born, and not to remain with the Mother. *Reſol. Judges* 1633. *Sect.* 21.

58. If *A.* have a Baſtard Child by *B.* born in *Dale*, 10 years ſince, and the Reputed Father marries another Woman, and they breed the Child 10 years in the Pariſh of *Sale*, and the Mother of the Child is in Service all this while, and a Single Woman, the Reputed Father dies; in this caſe the Child is to be ſent to the Mother firſt, to be maintained by her if ſhe be able, and if not, it muſt be kept by the Pariſh of *Sale*; where it was ſetled with the Father 10 years. *Rulſtr. Rep.* 2. *part. f.* 350.

59. If a Woman have a Baſtard Child, and is like to be chargeable to the Pariſh, and ſhe is ſent to the Houſe of Correction for it (as ſhe may be by Law) in this caſe it hath been queſtioned whether the Child muſt go with her, or remain in the Town where it was born, (or ſetled with the Mother) and

and there to be relieved by the work of the Mother, or by Relief from the Reputed Father, upon the 18 *El.* and it ſeems moſt reaſonable to be ſo; and yet the common opinion and practice is otherwiſe, (to wit) to ſend the Child with the Mother to the Houſe of Correction: And this may alſo ſeem reaſonable where the Child ſucketh on the Mother. *Dalt. J. P. Ch.* 11. *fo.* 39.

60. If a Woman with Child be ſent to the Houſe of Correction, and there be delivered, the Child muſt be ſent back to the Pariſh where the Woman came from, there to be relieved. Alſo if a Woman be travelling, and have her Child with her, and is apprehended and ſent to the Goal, and there hanged for Felony, in this caſe the Child ſhall not be chargeable to the place where the Goal is, but to the place where it was born (if it can be known) otherwiſe to the place where the Mother was apprehended; and ſo was the opinion of Sir *Nicholas Hide* 3 *Car.* 1.

61. The Two next Juſtices (*Quor. unus*) in or next to the limits where the Pariſh Church is, may take order as well for the puniſhment of the Mother

and reputed Father of a Baſtard Child, as alſo for the relief of the Pariſh where it is born, by charging the Mother and Father with the payment of money weekly towards the keeping of it, or otherwiſe; And if the Mother or Father perform not the Juſtices order therein, they are to ſuffer impriſonment without Bayl, except he or ſhe give Security to perform, or elſe to appear at the next Seſſions, and abide the order of the Juſtices there, if any be made there; and if none be made, then to ſtand to the firſt order. *Dalt. J. P. Ch. 11. fo. 37, & 38. 18 El. Ch. 3.*

62. Note, That this Order may be made by any two Juſtices of the County (*Quer. unus*) as it is held by ſome, but moſt properly by the two next Juſtices, and the queſtion muſt be about ſuch a Baſtard Child as is like to be a charge to the Pariſh; and the Security muſt be given to the Pariſh where the Child is born, to ſecure the Pariſh from the charge of the Child, or to keep the Child: it muſt be a Pariſh within the County where the two Juſtices have power, and the Order muſt be certain how long the Reputed Father

Father muſt keep the Child, ſecure the Pariſh, *&c.* and it muſt be made againſt the perſon that is ſuſpected to have gotten the Baſtard Child, and not againſt another perſon to contribute towards it, becauſe it was gotten in his houſe, *&c.* and the Order muſt expreſs the Child by the name of a Baſtard Child, and not the reputed Child of ſuch an one, and the Juſtices for the better diſcovery of the matter, may upon Oath examine the Mother her ſelf concerning the reputed Father, the time, *&c. Dalt. J. P. Ch.* 11. *fo.* 37. 18 *Eliz. Ch.* 3. 7 *Jac. Ch.* 4. See *Steel's Rep. fo.* 154, 245, 246, 247, 388. and ſee *Pridgeon's* Caſe. *Hill.* 9 *Car.* 1. *B. R.* and *Slater's* Caſe. *Paſch.* 13 *Car.* 1. *B. R. Cro. Rep.* 1. *Part.*

63. Where the Putative Father or Mother of a Baſtard Child ſhall run out of a Pariſh or County, and leave their Children upon the charge of the Pariſh, having Eſtates ſufficient to diſcharge the Pariſh, there the Churchwardens and Overſeers of the Poor of the place where the Child is born, may ſeize ſo many of the Goods and Chattels, or Rents of his other Lands, for

the discharge of the Parish, and bringing up and providing for the Child, as any two Justices shall order; and thereupon the Sessions is to dispose and sell the Goods and Chattels, and the Sessions may order the Officers aforesaid, what they shall receive of the Rents and Lands also for the purposes aforesaid. 14 *Car.* 2. *Ch.* 12.

CHAP. V.

The Overseers Office in making of Rates, And passing Accounts.

64. THese Officers, or the greater part of them (for the doing and performing of the things they have in charge) may raise weekly, or otherwise by Taxation of every Parson, Vicar, and other Occupier of Land, House, or Tythes, Cole-mines, or saleable Underwoods, within the Parish, Town, *&c.* such a sum as they shall think fit; and this Rate they must have allowed and confirmed under the hands of two Justices (*Quor. unus*) and then by Warrant from them, or any

any other Two Juſtices (*Quor. unus*) they may levy, by diſtreſs and ſale of the Goods of the party refuſing to pay, the ſaid Tax, rendring the Overplus to the owners, and in default of Diſtreſs, two ſuch Juſtices may commit the party to Priſon, there to remain without Bail till it be diſcharged by him. 43 *El. Ch.* 2. *Dalt. J. P. Ch.* 4. *fo.* 97. *Wingate's Stat. Tit. Poor People.*

65. Now theſe Rates ought to be well and truly made, according to mens viſible Eſtates, real and perſonal, within the place only, and not for any Eſtate elſewhere; at *Lincoln* Aſſizes 9 *Car.* 1. by Juſtice *Hutton* and *Crook.*

66. Note, That a Pariſh in Reputation ſhall be a Pariſh within this Law; ſo that if *A.* be an ancient Pariſh that hath Officers in it, and there be a Town within this Pariſh, which for a long time hath been uſed and reputed as a Pariſh, and hath all Parochial Rights, as Churchwardens, *&c.* here this place may be Rated as a Pariſh towards the Poor. *Hutton's Rep. fo.* 93. & *M.* 3. *Car. B. R. Hilton & Paul's* Caſe. *Cro.* 3. *Part. Rep.*

67. This Tax muſt be ſet upon the

Tenants and Occupiers of Lands; and not upon the Land-Lords living within or without the Pariſh; for the Tenant only is chargeable for the Land. *Bulſtred's* 1. *Part. Rep. fo.* 354.

68. The Parſon, having a full Tenth Part of the Profits of the Place, may be rated to a Tenth Part. *Reſol. Judges.* 1633. *Sect.* 32.

69. He that doth occupy Lands in his own hands, lying in ſeveral Pariſhes, he muſt be charged in every Pariſh for his Land lying therein, only according to the proportion thereof, and no more; but for his perſonal Eſtate it ſeems reaſonable he ſhould be charged for it in the place where his perſon is: All Lands Ancient Demeaſn Guildable, and Copyhold, are to be charged with theſe Rates, which ought to be according to the value, or by the pound, and not according to the quantity. *Sed conſuetudo tollit Legem.*

70. The Rate for Stock or Goods is thought reaſonable to be ſet after the proportion of Lands (*viz.*) an 100 pound in ſtock to be rated after 5 or 6 pound a year in Land.

71. Note, That in ſome ſpecial caſes

a

a man may be rated beyond his ability, as where one brings a charge upon a Pariſh; or under any pretence brings in a man that may be chargeable in a Pariſh, he may, if there be cauſe for this, be raiſed in his Rate to the full value of his Eſtate; and ſo was the Opinion of Sir *Nicholas Hide. Dalt. J. P. Ch.* 40. *fo.* 97.

72. Where the Inhabitants of any Pariſh are not able to relieve their Poor, any two Juſtices (*Quor. unus*) may tax other Pariſhes and places within the Hundred, yea, the whole Hundred, if need require; and where that is not ſufficient, the Juſtices in their Seſſions may tax the County in part, or wholly at their diſcretion. 43 *El. Ch.* 2. *Wingate's Abr. Stat. Tit. Poor People.* 14 *Car.* 2. *Ch.* 12.

73. If any perſons find themſelves aggrieved in any Tax or other Act done by the Overſeers, or by the Juſtices of Peace, they are to be Relieved at the Quarter Seſſions. *Dalt. J. P. Ch.* 40. *fo.* 97. *Wingate's Abr. Stat. Tit. Poor People.*

74. The Father, Grandfather, Mother, Grandmother, and Children of every poor perſon, ſhall be aſſeſſed to-

wards their Relief, as the Juſtices of the Peace in their Seſſions of the Peace in the County where ſuch Father, *&c.* dwells, ſhall limit and appoint, in pain to forfeit 20 *s.* a Month to the uſe of the Poor, to be levyed by diſtreſs and ſale as aforeſaid, and for want of diſtreſs to be committed to Priſon till the Forfeiture be paid. 43 *El. Ch.* 2. *Wingate's Abr. Stat. Tit. Poor People. Dalt. J. P. Ch.* 40. *fo.* 98.

75. Head Officers in Cities and Corporate Towns, and Aldermen of *London*, have in their ſeveral Precincts like Authority that Juſtices of Peace have in their Counties, and no other Juſtices of Peace are to enter and intermeddle there. *Wingate's Abr. Stat. Tit. Poor People.* 43 *El. Ch.* 2.

76. If any Pariſh ſhall extend into two Counties, or part thereof to lie in any City or Corporate Town where they have Juſtices; Then the Juſtices of every County, *&c.* are to intermeddle only within their own limits; and every of them reſpectively within their limits are to execute this Law concerning the nomination of Overſeers, binding of Apprentices, granting Warrants

Warrants to levy Taxations, taking Accounts of Overſers, and committing ſuch as refuſe to account or to pay their Arrearages; and yet the Overſeers ſhall without dividing themſelves, execute their Office in all places within the ſaid Pariſh, but ſhall give up Accounts to the Juſtices, or Head Officers of both places. *Wingate's Abr. Stat. Tit. Poor People.* 43 *El. Ch.* 2. *Dalt. J. P. Ch.* 40. *fo.* 97, 98.

77. Theſe Officers within four days after the end of their year, (and that other Officers are nominated) are to yield up a true account to two Juſtices (*Quor. unus*) of theſe things following, 1. What ſums of Money they have received or rated, and not received? 2. What ſtock of Ware or Stuff is in their hands, or in the hands of any of the Poor? 3. What Apprentices they have put out, and bound according to the Statute? 4. What Poor they have ſet to work or relieved? 5. What Poor they have ſuffered to wander and beg out of their Town, or in the Highways, or in their Town without their directions? 6. Whether they meet monthly to conſider of the things be-

longing to their Office? 7. Whether they made their Rates indifferently upon all men, according to their ability? 8. Whether they have endeavoured to gather and levy ſuch Aſſeſſments? 9. Whether they have neglected the Juſtices Warrants to them, or any of them directed for the levying of any forfeiture according to the *Stat.* 43 *El. Ch.* 2. *Dalt. J. P. Ch.* 40. *fo.* 96.

78. Now if the Churchwardens or Overſeers, or any of them, ſhall refuſe to make and yield a true and perfect Account to the ſaid Juſtices, of all ſuch money and of all ſuch ſtock as aforeſaid, any two Juſtices (*Quor. unus*) may commit them to the Common Gaol, there to remain without Bayl, till they have made a true account, and ſatisfied and paid to the new Overſeers ſo much of the ſaid Sum or Stock, as upon the ſaid Account ſhall be remaining in his or their hands, *&c.* And if they make a falſe account, they may be bound over to the Aſſizes or Seſſions, and there an Indictment may be preferred againſt them. *Dalt. J. P. Ch.* 40. *fo.* 96.

79. Alſo if any of the Churchwardens

dens or Overſeers ſhall refuſe, or deny to pay or deliver over to the new Overſeers the Arrearages (Sums of Money or Stock) which ſhall be in their hands, and due and behind upon their Account to be made as aforeſaid, and two ſuch Juſtices of Peace may make their Warrant to the preſent or ſubſequent Churchwardens and Overſeers, or any of them, to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring to the Parties the Overplus, and in default of ſuch Diſtreſs, any two Juſtices of the Peace may commit him or them to the Common Gaol, there to remain without Bayl, until payment or delivery of the ſaid Sum, Arrearages, and Stock be made. 43 *El. Ch.* 3, *Dalt. J. P. Ch.* 40. *fo.* 96.

80. If any ſuch Stock ſhall be in the hands of any of the Poor to work, and ſuch Poor ſhall refuſe to deliver the ſame, two ſuch Juſtices may make the like Warrant, to levy the ſame by diſtreſs, and for lack thereof may commit ſuch Offenders to the Gaol as aforeſaid. *Dalt. J. P. Ch.* 40. *fo.* 96.

81. And for theſe aforeſaid, and all other

other Negligencies of the Churchwarpens and Overſeers, in the execution of their Office, about the Poor, *&c.* every of them for every default he makes forfeits 20 *s.* which Default muſt be proved either by the Offenders own Confeſſion, or by Examination of Witneſſes, and it is to be levyed by the new Churchwardens and Overſeers, or one of them, by Warrant from two Juſtices, as aforeſaid, by Diſtreſs and Sale of the Offenders Goods; and for want of Diſtreſs, two ſuch Juſtices may commit Offenders to the Goal, there to remain without Bail, till the ſaid Forfeitures ſhall be paid; which ſaid Forfeitures are to be imployed to the uſe of the Poor of the ſame Pariſh. *Dalt. J. P. Ch.* 40. *fo.* 97. 43 *Eliz. Ch.* 2.

Their duty in ſuppreſſing Conventicles; See here *fol.* 34.

FINIS.

A GUIDE FOR SURVEYORS OF *High-ways* and *Bridges.*

CHAP. I.

Of the Choice of these Officers, how many Sorts of ways there are, with some few General Cases concerning High-ways.

1. THESE Supervisors or Surveyors of the High-ways are Officers yearly chosen by the Constables and Churchwardens of every Parish: and by the 14 *Car.* 2. the Churchwardens, Constables, or Tythingmen of every Parish, Town or Hamlet, for the time being, are upon Monday

Monday or Tuesday in *Easter-week*, with the advice of the major part of the Inhabitants to choose two or more sufficient Inhabitants of the Parish, Town, or Hamlet, to be Surveyors of the High-ways for the year following, and they are to give notice thereof in writing to the persons chosen next Sunday after; and for default of such choice, the Constable, Churchwardens, and Inhabitants of every Parish, Town, or Hamlet, shall forfeit and loose 5 *l.* 14 *Car.* 2. *Ch.* 6.

2. And after choice made of these Officers, as aforesaid, and notice given them, they are forthwith to take the Office upon them, on pain to forfeit 20 *s.* 2, 3 *P. M. Ch.* 8, *Wingate's Abr. Stat. Tit. High-ways.*

3. The Constables and Churchwardens are then also to appoint six days betwixt then and Midsummer, to be set apart for the amendment of the High-ways, and must give publick notice thereof in the Church the next Sunday after *Easter*. 5 *El. Ch.* 13. 23 *P. M. Ch.* 8. *Wingate's Abr. Stat. Tit. High-ways.*

4. Note,

4. Note, That there are three kind of ways, (to wit) firſt a Foot-way, called *Iter quod eſt jus eundi, vel ambulandi hominis.* Secondly, a Foot-way, and an Horſe-way, called *actus ab agendo*, and this vulgarly is called a Pack or Driſt way, and is both Foot-way and Horſe-way. Thirdly, a Cart-way, *&c.* called *Via* or *Additus*, (and this containeth the other two, and a Cart way alſo) for this is *jus eundi, vehendi, & vehiculum & jumentum ducendi*; and this is two-fold, to wit, *Via Regia*, the Kings High-way for all men, *& communis Strata*, belonging to a City or Town, or between Neighbours. *Dalt. J. P. Ch. 26. fo. 67.*

5. Note, That the Kings High-way (or *Via Regia*) leading either to the Market, or from Town to Town, the Freehold and Soil thereof, and the intereſt of all Trees, and other ſuch Profits thereupon growing, do belong to the Lord of the Soil, or the Lord of the Mannor, and therefore ſuch Lords are chargeable to cut down the Trees and Buſhes growing in ſuch High-ways; and it is called the Kings High-way, for that the King at all times hath therein Paſſage for Himſelf and his People,

People, and may puniſh all Nuſances therein, though otherwiſe the Intereſt be in the Lord to bring his Action for digging therein, or other like Treſpaſs there done. *Dalt. J. P. Ch. 26. fo. 68.* and ſee *Rolls* Caſes, 1. *Part. fo. 392. 2 E. 4. 9. 8 E. 4. 9. 17 E. 3. fo. 43. Bro. Chemine*, 10, 11. *& Leet. 3. 27 H. 6. fo. 9. 8 H. 7. fo. 5.*

6. Generally the owner of the Soil on both ſides of the way ſhall have the Trees growing in the way: But the Lord of a Rape, within which there are Ten Mannors, may preſcribe to have all the Trees growing within any High-way within ſuch Rape, although the Mannor or Soil adjoyning belong to another perſon, for the uſage and taking of the Trees is a good badge of Ownerſhip. *P. 11. Jac. B. R.* between Sir *Tho. Pelham*, & *Wiat*, & *Blake*, *Rolls Caſes.* 1. *Part. fo. 392.*

7. Where any perſon ſhall incloſe any part of the High-way, ſuch perſon ſhall be charged to amend the High-way next adjoyning to the ſaid Incloſure. And if one man have incloſed on one ſide, and another man on the other ſide, they ſhall be both charged to mend the

the ſame way. *Dalt. J. P. Ch.* 26. *fo.* 69. and ſee *Tr.* 10. *Car.* 1. *B. R.* Sir *Edward Duncomb*'s Caſe, *Cro.* 3. *Part. Rep. & 6 Jac & 19 Jac.* ſo Reſolved. *Rolls Caſes* 1. *Part. fo.* 390.

8. But otherwiſe generally High-ways muſt be ſufficiently amended at the charge of the whole Town: And it is not enough for the Inhabitants to do their full Six days work yearly; except their ways be all well and ſufficiently repaired thereby; For if all their ſaid ways be not ſufficiently amended, the whole Town may be Indicted therefore: and if Six days work in the year will not ſerve to amend them, the Surveyors may, yea, muſt appoint more days. *Dalt. J. P. Ch.* 26. *fo.* 69. 14 *Car.* 2. *Ch.* 6.

9. The owner of Lands, if he be not the occupier thereof, ought not to be charged towards the repair of the common High-ways; but the Tenant who occupies the Lands is to be charged. *Hill.* 11. *Car.* 1. *Br.* in one *Foſter*'s Caſe, *per Curiam. Rolls Caſes.* 1. *Part. fo.* 390.

CHAP.

CHAP. II.

The Duty of the Surveyors about Setting and Calling the Parishioners to the Common days works for the High-ways, and about taking and digging for Gravel, Chalk, Sand, &c. *See fol.* 58, 59.

10. THese Officers are to see that the Parishioners do their work on the days appointed, and that according to these Rules following, *viz.* Every person having in his own Occupation a Plough Land in Tillage or in Pasture in the same Parish, or keeping there a Plough or Draught, shall find and send on every day to the place appointed by the Surveyors, one Wain or Cart provided, after the fashion of the Country, with Oxen, *&c.* fit for the carriage, and with necessary Tools fit for the work, and with two able men, who are there to do such work with their Wains, *&c.* as they shall be appointed (by the Surveyors) by the space of eight hours every of the said six days, on pain of 10 *s.* every day default is made, 2, 4 P. *M. Ch.* 8. *Rastall.* 199. *Lamb.*

Lamb. 459. *Wingate's Abr. Stat. Tit. High-ways, Dalt. J. P. Ch.* 26. *fo.* 68.

11. And every other Houſholder, Cottager, and Labourer of the Pariſh, Town, *&c.* (able to labour, and being no hired Servant by the year) muſt by himſelf, or ſome other able man, be then and there ready to work every of the ſaid ſix days, by the ſpace of eight hours, as aforeſaid, where they ſhall be appointed by the Surveyors, under pain to forfeit 12 *d.* for every day they make Default. 2, 3 *P. M. Ch.* 8.

12. Note, That all perſons being chargeable but as Cottagers by the 2, & 3 *P. M.* yet if they be in Subſidy 5 *l.* in Goods, or 40 ſhillings in Lands, or above, they muſt find two able men to work every of the ſaid ſix days. 18 *El. Ch.* 9. *Wingate's Abr. Stat. Tit. High-ways. Dalt. J. P. Ch.* 26. *fo.* 68.

12. If any of the Carriages ſhall not be thought needful by the ſaid Surveyors upon any of the ſaid days, they may appoint inſtead of a Team, two able men to work, as aforeſaid, who, ſhall not fail in pain that the party that ſhould ſend them ſhall forfeit 12 pence for every day that either of them

them make default. *Wingate's Abr. Stat. Tit. High-ways.* 2, 3 *P. M. Ch.* 8. *Dalt. J. P. Ch.* 26. *fo.* 68.

13. He that ſhall occupy a Plow-land in Tillage or Paſture, lying in ſeveral Pariſhes, ſhall be chargeable only in the Pariſh where he dwelleth; and he that occupieth ſeveral Plow-lands in ſeveral Pariſhes, ſhall be charged in each Town or Pariſh where ſuch Land lyeth (to wit) to find in each Town or Pariſh one Cart furniſhed as aforeſaid, though he be no Inhabitant there. 18 *El. Ch.* 9. *Dalt. J. P. Ch.* 26. *fo.* 68.

14. Now for the further opening of theſe things, note, That it is ſaid that a Plow-land is not of any certain content, but ordinarily it is ſo much as one Plough may Plough in one year, which in ſome Countries is more, and in ſome leſs, according to the heavineſs of the Soil. *Co.* 9. *Rep. fo.* 124. *Co.* on *Lit. fo.* 69. *& vide Lamb. ver. Hide.* 35 *H.* 6. *fo.* 29.

15. And note, That a Plow-land or Carve of Land may contain Houſe, Meadow, Paſture, and Wood: And if one have ſo much of this as will keep a Plough and yield Tillage for it, if part

part of it were eared in this caſe, it ſeems he is to ſend his Plough. *Vide Co. 4. Lib. Rep. fo. 37. b. & 9. Rep. fo. 122.*

16. He that hath a Plough Land, and no Plough, but doth ſuffer his Land to lie freſh, yet he is to find a Plough for this work; and ſo it hath been agreed by the Judges. *Mich. 21. Jac. Dalt. J. P. Ch. 26. fo. 72.*

17. He that keepeth a Plough or Draught for carriage, although he occupieth little or no Land, but carrieth or plougheth for other men, yet it ſeems he is to ſend his Cart to the High-ways; and if a man keep only two Horſes and a Cart for his own buſineſs, in this caſe it ſeems he is to come with his Cart and two Horſes with a man to manage them. *Vide Dalt. J. P. Ch. 26. fo. 72.*

18. It is held by ſome, that ſo many Ploughs or Draughts men have, and uſe frequently about their own buſineſs in Summer, ſo many they are to bring with them to the High-ways; ſo that if a man have one Plough and five or ſix Horſes, and ſhall plough ſeven or eight ſcore Acres of Land, and ſhall uſually go in the Summer time with

two

two Carts or Draughts; in this c[illegible] it ſeems he is to come with two Carts or Draughts to this Service: And he that occupieth 40 or 50 Acres of Land, and keepeth only three Horſes, and one Draught or Cart, he is to come with one Draught or Cart. *Vide Dalt. J. P. Ch. 26. fo. 72.*

19. Note, That an Indictment by the Common Law may be brought againſt any Pariſh, for not repairing their High-ways, and ſo they are bound to make them good at their peril, and if Six days will not ſerve, the Surveyors may appoint more, and charge all perſons within their limits who are chargeable by Law to come to the work; and if he who is to ſend a Team neglect, he forfeits 10 *s.* and the labourer that neglects to come, forfeits 18 *d* for every day; but then by 14 *Car.* 2. *Ch.* 6. the Surveyors are to pay them for their work for all the days above ſix days, according to the Rates of the Country; and if they cannot agree, the next Juſtice of Peace living out of the Pariſh is to determine the buſineſs between them. 14 *Car.* 2. *Ch.* 6.

20. Theſe Officers may, if they ſee cauſe,

cauſe, for the amendment of the High-ways, take and carry away ſo much of the Rubbiſh, and ſmalleſt broken ſtones already digged, of any mans Quarry lying within the ſame Pariſh without leave of the owner, as they ſhall think needful, or gather the looſe ſtones lying diſperſed in any mans grounds; But they may not without Licenſe dig in any mans Quarry for new Stones, nor take the great Stones already digged; and if there be no ſuch Rubbiſh to be found in any mans Quarry within the ſaid Pariſh, then may they enter into any mans ſeveral ground within the Pariſh, lying near the place where the ways are decayed, and there (if they ſee any hopes of finding materials fit for the Reparation thereof) without leave of the owner, they may dig for Sand, Stones, Gravel, *&c.* ſo that it be not in the Houſes, Gardens, Orchards, or Meadows of any man; for they are not come there without Licence of the owner; and in ſuch place where they may dig without leave, they are not to make a pit above ten yards in breadth or length, and they are to take care that the place be filled up again

gain at the charge of the Parish within one month after, upon pain to forfeit five marks to the owner of the ground to be recovered by Action of Debt; and this is by the 5 *El. Ch.* 13.

21. The same power also is granted to Surveyors by the 14 *Car.* 2. *Ch.* 6. to dig for Gravel, Chalk, Sand, Stones, *&c.* in any mans ground in the Parish next adjoyning to the place where the ways are in decay, if there be not sufficient in the same Parish; Provided it be not in the House, Garden, Orchard, Court, Yard, Park with Deer in it, or in the Meadow of such party; and this they may do without paying any thing for the same Sand, Gravel, *&c.* only Damages to the party for the carriage of the same over his Grass, *&c.* and the pits and holes are to be filled up in such manner, and under such penalties as are prescribed in the 5 *El.* in the Section, next before shewed. 14 *Car.* 2. *Ch.* 6.

CHAP.

CHAP. III.

The Surveyors Duty about cutting down Buſhes, Trees, and Scouring of Ditches in the High-ways; and alſo touching Preſentments and Inquiries about Defaults, paſſing of Accounts, Travelling of Waggons, Wayns, &c.

22. IF the owners of the Grounds next adjoyning to the High-ways do not keep their Hedges low, and cut down their Trees and Buſhes growing in the ſame ways, they forfeit ten ſhillings. *Wingate's Abr. Stat. Tit. High-ways.* 5 *El. Ch.* 13. 8 *El. Ch.* 10.

23. And he that ſcowrs not his Ditches in the ground next adjoyning to the Ground that is next the High-way, to the end the water may have the better paſſage out of the High-way, ſhall forfeit 12 pence for every Rod ſo left unſcowred. 18 *E. Ch.* 10. *Wingate ut ſupra.*

24. If any ſcowr his Ditch by the High-way ſide, and throw the ſcowring thereof into the High-way, and ſuffer it to lie there ſix months, he for-

ſeits for every load thereof 12 pence; and the Surveyors are to make Sluces where ſuch banks have been heretofore made, for carrying away the water out of the High-way. 18 *El. Ch.* 10.

25. Every Surveyor may cauſe any Water-courſe, or Spring of Water being in the High-way, (within their Pariſh) to be turned into another mans ſeveral Ditch or Ground next adjoyning to the ſaid way, in ſuch manner as by the diſcretion of the ſaid Surveyor ſhall be thought meet. *Dalt. J. P. Ch. 26. fo. 70.*

26. Note, That the Forfeitures of the Act of the 18 *El.* 10. muſt be levyed by the Surveyors for the time being, (by Warrant from the Juſtices before whom the party ſhall be convict) by Diſtreſs and Sale of Goods; which forfeitures are to be employed towards the amendment of the High-ways; and if the Surveyors neglect to do it within one year after the offence committed, then the Conſtables and Church-wardens by like Warrant may do it. 18 *El. Ch.* 10. *Wingate's Abr. Stat. Tit. High-ways.*

27. The

27. The Surveyors or one of them are to preſent to the next Juſtice of Peace every default upon the 2, & 3 *P. & M. Ch.* 8. & 5 *El. Ch.* 13. within one month after it ſhall be made, in pain of 40 *l.* and the Juſtice is in pain of 5 *l.* to certifie the ſame at the next Quarter Seſſions, where the Juſtices have power to inquire of the Default, and ſhall ſet ſuch Fine upon the Delinquents, as they or two of them (*Quor. unus*) ſhall think fit. 5 *El. Ch.* 13. *Dalt. J. P. Ch.* 16. *fo.* 70.

28. Note, That the Preſentment of a Juſtice of Peace in Seſſions, upon his own knowledg, ſhall be a good Conviction, whereupon the Juſtices in Seſſions, or any two of them (*Quor. unus*) may aſſeſs a Fine, as well as upon a verdict of Twelve men; but in this caſe the Delinquent ſhall be admitted to his Traverſe as in other caſes, 5 *El. Ch.* 13. *vide Keſtall.* 199.

29. The Defaults and Offences upon theſe *Stat.* 2, & 3 *P. M.* 5 *El.* & 18. *Eliz.* are inquirable by the Juſtices of Peace in their Seſſions, or by Stewards in Leets, either of which have power to ſet Fines upon Offenders at their

diſcretions; of which Fines Indented Eſtreats (in the Seſſions under the Hand and Seal of the Clerk of the Peace, in the Leet under the Hand and Seal of the Steward) ſhall be delivered within ſix weeks after *Michaelmas*, one part of the Eſtreate to the Bayliff or High-Conſtable of the Liberty, and the other part to the Conſtables and Church-wardens of the Pariſh where the Offenders live. 2, 3 *P. M. Ch.* 8. 5 *El. Ch.* 13. 18. *Wingate's Abr. Stat. Tit. High-ways.*

30. And theſe Eſtreates ſhall be a ſufficient Warrant for the Bayliff or Chief Conſtable of the Liberty to levy the ſaid offences by way of Diſtreſs; and if no Diſtreſs can be found, or the party do no not pay the fine within 20 days after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines and Forfeitures are to be imployed and beſtowed towards the amendment of the High-ways in the Pariſh where the offences are committed. *Wingate's Abr. Stat. Tit. High-ways*, 2, 3 *P. M. Ch.* 8.

31. The Bayliff, or High Conſtable, ſhall yearly betwixt the firſt of *March* and

and laſt of *April*, render an Account unto the Conſtables and Church-wardens, who have the other parts of the Eſtreats of the Fines, of what money they have received, in pain of 40 ſhillings; and the ſaid Conſtables and Churchwardens have power to call the Bayliff or High-Conſtable before two or more Juſtices of the Peace (*Quorum*) to paſs his Account, who have power to commit him, until he have ſatisfied all the Arrearages by him received, ſave 8 *d.* in the pound for his own Fee, and 12 *d.* in the pound for the Clerk of the Peace, or Steward of the Leet, and in this caſe the ſucceeding Conſtables and Churchwardens have the ſame power as their Predeceſſors had. 2, 3 *P. M. Ch.* 8.

32. Two Juſtices of the Peace by the *Stat.* 18 *El.* may take Accounts of the Surveyors of the ways, and of the petty Conſtables and Churchwardens, for ſuch Forfeitures (within that Statute) as they have Levyed. 18 *El. Ch.* 10. *Dalt. J. P. Ch.* 26. *fo.* 71.

33. By the 14 *Car.* 2. *Ch.* 6. Every perſon elected a Surveyor of the High-ways, ſhall within one month after his

yearly expired yield up to the Inhabitants of the Pariſh, Town, or Hamlet, at ſome publick meeting appointed by the Inhabitants, a perfect Account of all monies he hath received and paid within the year, by reaſon of his ſaid Office, and of whom, what ſum, and to whom he paid the ſame, what monies are in Arrear for Fine, Forfeitures, Penalties, *&c.* And if any overplus be in his hands, he ſhall turn the ſame to the next Surveyor for the uſe of the Pariſh, Town, or Hamlet, to be diſburſed in and about the High-ways the year following. And if the Surveyor ſhall not make ſuch Account and Payment, then two Juſtices near the Pariſh upon complaint may examine the buſineſs upon Oath, and upon default found in the Surveyor, they may commit him to the Goal of the County, City, *&c.* there to remain till he have made a true Account and Payment. 14 *Car.* 2. *Ch.* 6.

34. All Juſtices of Aſſiſe, Oyer and Terminer, and Juſtices of Peace are impowred to hear and determine all matters concerning Charitable Gifts, for the amending and keeping in Repair any

any common High-ways, Pavements, Streets, *&c.* within their Commiſſion, and to make Orders for the due Imployment of ſuch Gifts (except the Gift be made to the uſe of any Colledge, Hall, Free-School, or Hoſpital, who have proper Viſitors of their own) and to determine all offences; and defects in Surveyors concerning the ſame; and in caſe any perſon be agrieved by ſuch order, he may appeal to the Court of Chancery, as in caſe of a Decree made upon the Statute of *Charitable Uſes.* 14 *Car.* 2. *Ch.* 6.

35. No Travelling Wain, Wagon, Cart, or Carriage, wherein any Goods, Burthens, or Wares ſhall be carried or drawn for hire (other than ſuch Carts and Carriages as are imployed about Husbandry, and managing of Lands, and in carrying of Hay, Straw, Corn unthreſhed, Coal, Chalk, Timber for Shipping, Materials for Building, Stones of all ſorts, or ſuch Ammunition or Artillery as ſhall be for his Majeſties Service) ſhall at any one time Travel, be drawn, or go in any publick or common High-way with above 7 Horſe Beaſts, whereof ſix ſhall

draw in pairs, nor with aboue 8 Oxen, or ſix Oxen and two Horſes; nor ſhall at any time carry above 2000 weight between the firſt of *October* and the firſt of *May*, (except ſuch particulars as aboveſaid) nor above 3000 weight between the firſt of *May* and the firſt of *October*; nor above five quarters of Wheat, Meal, Meſline, Rye, Peaſe, Beans, Tares, nor above eight quarters of Barly, Malt, or Oats; nor ſhall any Wagon, Wain, or Carriage, be imployed for the ſaid uſes, the wheels whereof are leſs in breadth than four inches in the tyre, upon pain every owner of ſuch Waggon, Wain, or Carriage, Horſe, Beaſts, or Oxen, ſhall for every of the ſaid offences forfeit 40 ſhillings, to be divided into three equal parts, one to the Surveyors of the High-ways where any of the offences ſhall be committed towards the repair of the High-ways of the Pariſh there, one other part to the Overſeers of the Poor of the Pariſh where the offence is committed for the Relief of the Poor there, and one other part to him that ſhall diſcover and proſecute for every of the ſaid offences; The penalties to be levyed by Diſtreſs of

of all or any the Horſe, Beaſts or Oxen, and to be diſtributed as aforeſaid, by the Conſtables, Surveyors of the High-ways and Overſeers of the Poor; and in caſe the penalties be not paid within three days after Diſtreſs, then the ſame to be ſold, rendring the overplus, the charges of keeping and ſelling firſt deducted. 14 *Car.* 2. *Ch.* 6.

36. Note, There are ſeveral Statutes which concern particular High-ways, in which theſe Surveyors are little concerned; I ſhall therefore only name the Statutes, and they who deſire to be further informed therein, may look the Statutes at large.

37. *Stat.* 39 *El. Ch.* 19. for Repairing the High-ways in the Wild of *Suſſex*, *Surrey*, and *Kent*, uſed for Iron Works, *Stat.* 37 *H.* 8. *Ch.* 3. For *Huntington Lane* near to *Cheſter*, *Stat.* 14 *H.* 8. *Ch.* 6. & 26 *H.* 8. *Ch.* 7. For laying out new High ways in the Wild of *Kent* or *Suſſex*, *Stat.* 1 *M. Par.* 2. *Ch.* 5. For the Cawſey between *Dorcheſter* and *Sherborn*, *Stat.* 18 *El. Ch.* 10. about the Kings Ferry in *Kent*.

CHAP. IV.

Some Heads of the Stat. 14 Car. 2. Ch. 2. *concerning the Ways, Sewers, Pavements,* &c. *in* London, *and the Scavengers Office.*

38. FOR the inlargement of the High-ways, Streets, Pavements, Gutters and Sewers in and about *London*; these things are to be known, that there are Commissioners to be appointed under the Kings Great Seal; any Five or more of which Commissioners may direct and order the pulling down and removing of Nusances and Incroachments, and the inlarging, altering, new-making or cleansing of Vaults, Sinks, and Common Sewers, and may inlarge or straiten the passages as they see cause, according to the Limitations laid down in the said Act. 14 *Car.* 2. *Ch.* 2.

39. For the raising of money for the Commissioners to effect their work with, they are to licence 400 *Hackny* Coaches and no more, every of which is to pay five pound *per annum* to the Com-

Commiſſioners, and every load of Hay is to pay ſix pence, and every Cart load of Straw two pence every time they ſtand upon the new paved Streets about the *Mews*, *&c.* mentioned in the Act, to the Commiſſioners or to ſuch as they ſhall appoint. 14 *Car.* 2. *Ch.* 2.

40. The Commiſſioners alſo are to order and direct the Scavengers, and ſuch like Officers and others, for the carrying away of Filth and Dirt in the Streets, and every Houſeholder in *London*, *Weſtminſter*, Burrough of *Southwark*, and places adjacent, as to ſweep and cleanſe the Streets, Lanes, Allies, and publick places, before their houſes, twice every week (to wit) Wedneſdays and Saturdays, and make it ready for the the Scavenger to carry away, on pain of 3 *s.* 4 *d.* for every neglect. 14 *Car.* 2. *Ch.* 2.

41. And no perſon whatſoever, upon pain of five ſhillings, is to throw any Filth, Dirt, Aſhes, or noyſom thing into the Streets, Lanes, Allies, or againſt the Walls of any Church or Church-yard, or other Houſes, nor throw the ſame into any Vault or Sink; but they are to keep the ſame in their Houſes, until

until the Scavenger come, and then they are to carry it out to him, or otherwiſe put it in his Cart, upon pain to forfeit for every offence twenty ſhillings. 14 *Car.* 2. *Ch.* 2.

42. None are to hoop, waſh, or cleanſe any Pipe, Barrels, or other Casks or Veſſels, in any of the Streets, Lanes, or Paſſages aforeſaid, nor ſet out any empty Coaches to make or mend, or rough Timber or Stones to be ſawn or wrought in the Streets, on pain of twenty ſhillings for every offence; and every Houſholder is to repair and keep paved the Streets, Lanes, *&c.* before his Houſe unto the Channel or middle of the ſame Street, upon pain of twenty ſhillings for every Rod, and after that proportion for a leſs quantity for every Default; and twenty ſhillings *per week* for every week after till it ſhall be well paved and amended: ſuch Streets as have been otherwiſe repaired are to keep their old cuſtom; and every Houſholder alſo, whoſe Houſe adjoyns next the Street, is to hang out his Light from *Michaelmas* till *Lady*-day, from ſuch time as it begins to grow dark, till nine of the clock in the Evening, upon pain

pain of 12 *d.* for every dafault. 14 *Car.* 2. *Ch.* 2.

43. Every Juſtice of either Bench, Barons of the Exchequer, or Juſtices of Peace in the places aforeſaid, within their ſeveral Limits, may upon their own knowledg, or view, confeſſion of the Party, or proof of one Witneſs upon Oath convict any perſon, *&c.* of the offences aforeſaid, whereby they ſhall incur the penalties aforeſaid, one moiety to the repairing and cleanſing of the Street, *&c.* the other to the Diſcoverer; but in caſe the Juſtice himſelf convict the party upon knowledg or view of himſelf, then all the penalty is to be imployed for the repairing of the Street or place where the offender lives: And theſe Forfeitures are to be levyed by Diſtreſs and Sale of the Offenders Goods by Warrant under the Hand and Seal of any ſuch Juſtice, *&c.* rendring the Overplus to the party, and for Default of Diſtreſs or Non-payment within ſix days after demand, or notice in writing left at the Offenders dwelling houſe by the Conſtable or other Officer, the Offender (not being a Peer of the Realm) may by ſuch

ſuch Juſtice be committed to the Common Goal, there to remain till payment. 14 *Car.* 2. *Ch.* 2.

44. Within *London*, and the Liberties thereof, the Scavengers, Rakers, and ſuch like Officers are to be elected, and ſuch Payments made by the Pariſhioners to them, for cleanſing the Streets, as hath been uſed by cuſtom; and in *Weſtminſter* alſo they are to obſerve their Cuſtoms for Election and Payments as aforeſaid, and in all other Pariſhes and places upon every Tueſday or Wedneſday in *Eaſter*-week, the Conſtables, Churchwardens, and Overſeers of the Poor, and Surveyors of the High-ways of every Pariſh aforeſaid, giving notice or calling together the Inhabitants of the Pariſh that have born ſuch Office, they, or the greater number of them ſhall appoint two Tradeſmen of their Pariſhes to be Scavengers for the Streets, *&c.* of each Ward for that year following; which perſons being appointed and confirmed under the hands of two Juſtices of Peace, within their Limits, *&c.* are within ſeven days after to take the Office upon them, on pain of twenty pounds

pounds upon every Refuſer; and if after this others be choſen, and refuſe as aforeſaid, they are to ſuffer the like penalty: which penalties are to go towards the repairing of the Streets of the Pariſh where, *&c.* to be levyed by Diſtreſs and Sale of the Offenders Goods, by Warrant from any Juſtice of Peace within the limits, *&c.* directed to the Conſtables, or other Officers, or any two of them, rendring the overplus to the owners; and for want of Diſtreſs or Non-payment ſix days after demand, the offenders to be committed by any ſuch Juſtice to the Common Gaol, there to remain till payment. 14 *Car.* 2. *Ch.* 2.

45. Within twenty days after Election and Confirmation as aforeſaid, the Conſtables and other Officers and Inhabitants as aforeſaid, or the greater number of them, ſhall ſet a Rate according to the pound Rate, to be impoſed upon the Inhabitants of the Pariſh, Ward, *&c.* for the year following, which being allowed and confirmed by two Juſtices of the Peace of the place aforeſaid, reſpectively, ſhall be yearly paid by every Inhabitant, upon demand thereof,

thereof by the Beadle of the Pariſh, or other Officer appointed to collect the ſame, and in caſe of refuſal, two ſuch Juſtices may grant their Warrant to levy the ſame by Diſtreſs and Sale; and for want of Diſtreſs, to impriſon the Offender as aforeſaid, (not being a Peer of the Realm) till payment be made. 15 *Car.* 2. *Ch.* 2.

46. The Rakers and Scavengers every day in the week (except Sundays and Holy-days) muſt bring Carts, Dung-pots, or other fitting Carriages, into the Streets within their reſpective Wards, Pariſhes, and Diviſions, where ſuch Carts, *&c.* can paſs; and at and before their approach by a Bell Clapper, or otherwiſe, ſhall make a loud noiſe, and give notice of their coming; and ſo into every Court, *&c.* where Carts cannot paſs, and abide and ſtay there a convenient time, that all perſons concerned may bring forth their reſpective Duſt, Aſhes, *&c.* to the ſaid Carts, all which the ſaid Rakers and Scavengers ſhall carry away on pain of 40 ſhillings for every offence and neglect reſpectively. 14 *Car.* 2. *Ch.* 2.

CHAP.

CHAP. V.

Some Particulars gathered out of the Acts, 15 Car. 2. Ch. 1. & 16, 17 Car. 2. Ch. 10. *about the Repair of the High-ways in the Northern-Poſt-Road from* London *to* York, *&c.*

47. FOr the amendment of the ancient High-way and Poſt-road leading from *London*, (for many miles in the County of *Hertford*, *Cambridge*, and *Huntington*) to *York*, and ſo into *Scotland*, and likewiſe from *London* into *Lincolnſhire*, and from the City of *Norwich*, St. *Edmunds-Bury*, and the Town of *Cambride* to *London*; and from *London* to *Newmarket*, and ſo into *Norfolk* and *Suffolk*, beginning at *Puckridge* in *Hertfordſhire*, and ſo to *Barley* in the ſame County, it is provided, as followeth:

48. The Juſtices of Peace at their *Eaſter* Seſſions yearly, for the reſpective Counties aforeſaid, from time to time are to nominate and appoint nine, ſufficient able perſons, reſiding and inhabiting within the ſaid ſeveral Counties, to be Surveyors of the ſeveral places

places in the ways aforesaid, for the year then next following, the Justices for the County of *Hertford*, to appoint the Surveyors for the High-way, lying in the several Towns and Parishes within the said County, and Justices for the Counties of *Cambridge* and *Huntington* respectively to do the like; and the Justices and these Officers are not to meddle out of their respective Counties: After the choice of the Surveyors, the Justices are to give them notice in writing, and if they neglect or refuse the Office, the Justices at their Sessions may set any Fine under 10 pounds upon every such Person so refusing or neglecting; and in case any one so chosen shall die, or shall be discharged of his Office, then any two or more Justices of the County, near to the High-way and places, may appoint some other fit person in his place, and give him notice thereof under their Hands and Seals; and if he refuse or neglect it, then to be under the same penalty as the Refusers of them that were first elected. 15 *Car.* 2. *Ch.* 1.

49. The Surveyors within a week after

ter notice given them of their choice, having no lawful impediment to be allowed by the Juſtices that do chooſe them, are to meet in each of their Counties reſpectively, in ſome convenient place of each County appointed by the Juſtices at their Quarter Seſſions, to view and ſurvey the ſame ways, and to conſider what Reparations ſhall be needful, and they are in each County to provide Stones, Gravel, and other materials and neceſſaries for the work. 15 *Car.* 2. *Ch.* 1.

50. And three of theſe Surveyors for each County, being met together as aforeſaid, with the approbation of two or more Juſtices of the County living near to the High-ways or places aforeſaid, may appoint a Receiver or Collector of Toll, and ſuch other Officers as they ſhall find neceſſary to carry on their work, for which a moderate allowance is to be given. 15 *Car.* 2. *Ch.* 1.

51. Any three or more of the Surveyors are to appoint and require all the Inhabitants within three miles of the places aforeſaid, and in the ſame County that are by the former Laws

Laws of *P.* & *M.* and Queen *Elizabeth* chargeable to find Wain, Team, or Cart for the amending of the High-ways, and other persons chargeable in person only, to labour herein for three days in a week, so that it be not in Seed-time, Hay, or Corn-harvest, to come or send their Wains, Carts, or Teams provided, as by Law they ought to do, for repair of the High-ways; and when they are come, to appoint them their several work, and to pay them after the rate of the Country for their work, and if any difference be, two Justices of the Peace of the County are to end it; he that fails to send his Wain, *&c.* for every day forfeits ten shillings, and the Labourer refusing or neglecting for every day 18 pence. 15 *Car.* 2. *Ch.* 1.

52. Any three or more of the Surveyors may appoint any to dig, take, and carry away so much as they shall think needful of the Gravel, Chalk, Sand, or Stones out of the Waste or Common of any neighbouring Parish or place near adjoyning to the place in decay, without paying any thing for it; and if it be not there to be had, then they

they may take it out of any mans ſeveral ground (not being an Houſe, Garden, Orchard, Yard or Park ſtored with Deer) in any Pariſh chargeable toward the repair of the ſaid High-way, giving only ſatisfaction to the owner of the ground for the damage he hath thereby, accordingly as the Juſtices at any of their Quarter Seſſions ſhall ſet down, if any difference be: And they are with all ſpeed convenient to fill up and level ſuch Pits as they ſhall make, or elſe to rail them about, that they be not dangerous to Man or Beaſt. 15 *Car.* 2. *Ch.* 1.

53. The Surveyors are always at the Quarter Seſſions next after *Eaſter* to give in an Account under their Hands to the Juſtices of all the money they have received from the Collector or Receiver of the Toll, and what they have laid out about the High-ways or in the execution of their Office; and if they have any money in their hands, they are to pay it to the Surveyors for the next year, or to their Treaſurer or Receiver; and then they are to have allowance for their pains; and if they ſhall not account and pay in the money

in

in their hand, or if the Collector or Receiver of the Toll refuse to pay in the money to the Surveyors upon Request, then they respectively at any Quarter Sessions may be committed to Prison, till they do so account and pay in the money. 15 *Car.* 2. *Ch.* 1.

54. If the Justices at their Quarter Sessions make any Rate for the Repair of these High-ways, the Surveyors are to collect and receive it, and in case of refusal they or their Receivers and Collectors may distrain for it, and sell the Distress, rendring the overplus to the owners; and they or their Receivers are to receive all the Fines and Forfeitures named in the Act, and to imploy them towards the Repair of the High-ways; they might also (with the consent of the Justices at their Quarter Sessions) borrow money to repair the said High-ways, and ingage the Toll for it in their respective Counties, by Indenture under their Hands and Seals for any time under nine years, for Security of the Repayment of the Money borrowed with Interest, and therewith repay the same. 15 *Car.* 2. *Ch.* 1.

55. The

55. The Collector of the Toll for these High-ways is to demand and receive Toll or Custom, for all the Horses, Coaches, Carts, Waggons, Droves, and Gangs of Cattel, that shall pass, be led, or driven in or through the Toll Gates at *Stilton* in *Huntingtonshire*, at *Arrington-Bridge* in *Cambridgeshire*, and at *Wades-Mill* in *Hartfordshire*, after the proportion following: That is to say, for every Horse one peny, every Coach six pence, every Cart eight pence, every Waggon twelve pence, every score of Sheep or Lambs one half peny, and so proportionably for greater or lesser numbers; for every score of Hogs two pence, and so proportionably for greater or lesser numbers, not being under Five; for every score of Oxen or Neat Cattel five pence, and so proportionably for greater or lesser numbers; and if any refuse or neglect to pay, the Collector may distrain the Horse, Coach, Cart, Waggon, Oxen, or other Cattel aforesaid, or any of them, and keep them till the Toll be paid, and damages for keeping the Distress. 15 *Car.* 2. *Ch.* 1. and see 16, & 17 *Car.* 2. *Ch.* 10.

56. Note,

56. Note, That no Paſſenger is to pay twice in one day at the ſame place, neither is any Souldier in his March, or Poſt-rider to pay Toll, and certain adjacent Towns alſo to the ſaid places appointed for taking of Toll are exempted. See the Statute it ſelf. 15 *Car.* 2. *Ch.* 1.

57. The Toll at *Stilton* and *Arrington* Bridge is to continue 11 years, to begin from the 7*th* of *July* in the 15*th* year of the King, if the ways be not well amended, and the monies borrowed paid in again, before the expiration of the ſaid Term; and the Toll at *Wades* Mill is to continue for 21 years, after the 11 years expired, if the ways be not adjudged to be well amended in the mean time, and all monies borrowed for that purpoſe, with the Intereſt thereof repaid again. 15 *Car.* 2. *Ch.* 1. 16, & 17 *Car.* 2. *Ch.* 10.

58. The Collector of the Toll at *Wades* Mill is to account weekly to the Receiver General; and the next Juſtice may give the Collector an Oath to make a true and perfect Account, and ſuch Account is to be returned to the next Quarter Seſſions for the County, by

by the Juſtice that gives the Oath, 16 & 17 *Car.* 2. *Ch.* 10.

59. All perſons who by Law are chargeable towards the repairing of the High-ways aforeſaid, ſhall ſtill remain ſo chargeable, by the 15 *Car.* 2. *Ch.* 1. and ſhall alſo pay ſix pence in the pound yearly, according to the true value of their Eſtate, towards the repair of the ſaid High-way during the continuance of the Toll, which ſhall be paid to the Treaſurer of the ſaid Toll; and in default of payment ſix days after demand, the Surveyors are to diſtrain for it, and ſell the diſtreſs, rendring the overplus to the owners, if any be, 16, & 17 *Car.* 2. *Ch.* 10.

60. The Receivers or Collectors of the Toll, that ſhall be in the office at the end of the 11 years, if they upon their account ſhall then have any Money in their hands, they are to bring the ſame to the Juſtices at their next Quarter Seſſions, under pain to forfeit double ſo much, to be recovered by Diſtreſs and Sale of their Goods. 15 *Car.* 2. *Ch.* 1.

CHAP. V.

Several Cases about the Repairs of Bridges, with the names of the Statutes which concern particular Bridges.

61. WHere a Common Bridge in the Kings High-way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof; in this case Four Justices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding wherein such decayed Bridges be, and if they be in a City or Town Corporate, then four such Justices of Peace there, may, within the limits of their several Commissions, call before them the Constables, or two of the most honest Inhabitants of every Town and Parish within the Shire, Riding, City or Town Corporate, wherein such Bridge or any parcel thereof shall happen to be: and the Justices (upon the appearance of the Constables or other Inhabitants, and with their assents) may tax every Inhabitant in any such City, Town, or Parish

Pariſh within their limits, to ſuch reaſonable ſum of money as by their diſcretions they ſhall think convenient, as well for the repairing of ſuch Bridge, and alſo for the making and repairing of the High-ways by the ſpace of 300 Foot next adjoyning to the ends of any ſuch Bridge. 22 *H.* 8. *Ch.* 5. *Dalt. J. P. Ch.* 13. *fo.* 40. *Co.* 2. *Part. Inſt. fo.* 701, 702.

62. But note, where the Franchiſe, City, or Burrough is a County of it ſelf, and hath not four or more Juſtices of the Peace, whereof one or more are of the *Quorum*, in this caſe no other Juſtices of the Peace of any Shire or County have any power to meddle there by this Act, but ſuch decay muſt be reformed by the Common Law by ſuch Remedie, as they were before the making of the Statute of 22 *H.* 8. *Co.* 2. *Part Inſt. fo.* 702.

63. And note, that this Taxation ought not to be made by the Juſtices without the conſent of the Conſtables or Inhabitants, nor by them without the Juſtices; and this tax ought to be upon every Inhabitant in particular, and not to be ſet upon the Hundred,

Pariſh, Town, *&c.* for then one or few might be diſtrained upon for the whole. *Co.* 2. *Part. Inſt. fo.* 704.

64. After ſuch Taxation made as aforeſaid, the ſaid Juſtices of Peace ſhall cauſe the Names and Sums of every particular perſon ſo by them Taxed, to be written in a Roll indented in Parchment for every Hundred, and ſealed with their Seals. *Co.* 2. *Part. Inſt. fo.* 704. *Dalt. J. P. Ch.* 13. *fo.* 40.

65. And the ſaid Juſtices may make two Collectors of every Hundred, for the Collecting of all ſuch Sums of Money, by the ſaid Juſtices ſet and taxed, which Cullectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Money therein contained, and if refuſal be made upon demand, then to diſtrain and ſell ſuch diſtreſs, rendring the overplus to the owner if any be. *Dalt. J. P. Ch.* 13. *fo.* 40. 22 *H.* 8. *Ch.* 5. *Co.* 2. *Part. Inſt. fo.* 705.

66. The ſaid Juſtices alſo are to appoint two Surveyors, who ſhall ſee ſuch decayed Bridges and ways repaired and amended from time to time as often as need ſhall require, to whoſe hands

hands the Collectors must pay the Monies by them received. *Dalt. J. P. Ch.* 13. *fo.* 40. 22 *H.* 8. *Ch.* 5.

67. And the said Collectors and Surveyors, and their Executors and Administrators, and every of them shall from time to time make a true Account to the said Justices of Peace, of the Receipts, Payments, and Expences of the said Sums of Money, and if any of them refuse so to do, then the said Justices of Peace from time to time by their discretions, may make out process against the said Collectors and Surveyors, their Executors and Administrators by Attachment, Precept, or Warrant, under their Hands and Seals returnable at their General Sessions of the Peace, and the said Justices may allow such reasonable Costs and Charges to the said Surveyors and Collectors upon their Account, as to them shall seem convenient. 22 *H.* 8. *Ch.* 5. *Dalt. J. P. Ch.* 13. *fo.* 40.

68. If any such Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the said City or Corporate Town must repair it; and where such Bridge lies out of such City or

Corporate Town, the ſame muſt be made by the Inhabitants of the Shire or Riding within which the ſame Bridge ſhall be, and if part of the Bridge be in one Shire or Riding, City, or Corporate Town, and part in another, then every of them ſhall be charged to make and repair ſuch part as ſhall lie and be within their own limits. 22 *H.* 6. *Ch.* 5. *Co.* 2. *Part. Inſt. fo.* 702. *Dalt. J. P. Ch.* 13. *fo.* 41.

69. But otherwiſe no Village or Freeman ſhall be compelled to make any Bridge; but ſuch as of old time, and by Right they were wont to make. *Magna Charta Ch.* 15.

70. By the Common Law ſome perſons were bound to repair Bridges, *Ratione tenuræ ſuæ Terrarum, &c.* and this was binding, into whoſe hands ſoever the Eſtate did come; but they which have Lands on the one ſide, or on the other, or on both, are not bound in Common Right to repair the ſame. 44 *El.* 3. 31. 21 *E.* 4. 46. 5 *H.* 7. 3. *Crompt.* 186. 8 *H.* 7. 5. *b. Co.* 2. *Part. Inſt. fo.* 700.

71. If a man, which holdeth 100 Acres of Land, ought to repair a Bridge by tenure of the ſame, do alien 20 Acres

cres thereof to one man, and 10 Acres to another man, in ſuch caſe every owner or occupier of ſuch Lands muſt be charged proportionably for their ſaid Lands. *Reg iſt.* 268. *a. F. N. B.* 235. *B. Co.* 2. *Part. Inſt. fo.* 700.

72. Again, ſome by the Common Law were bound by preſcription to repair a Bridge, but herein there is a diverſity between Bodies Politick or Corporate, Spiritual or Temporal, and Natural Perſons; For Bodies Politick, *&c.* may be bound by uſuage and preſcription only, becauſe they are local, and have a perpetual ſucceſſion, and never dye; but a Natural perſon cannot be bound by the Act of his Anceſtor, without Aſſets, or ſome profit to be taken therefore. 21 *E.* 4. *fo.* 38. *b.* 27. *Aſſ.* 8. *Crompt.* 187. *Co.* 2. *Part. fo.* 700. *Dalt. J. P. Ch.* 13. *fo.* 41.

73. By Common Right Bridges are to be amended by the whole County, if it be not known who ought to do the ſame otherwiſe. *Paſch.* 10 *E.* 3. 28, 29. *Co.* 2. *Part. Inſt. fo.* 701. *Crompt.* 186. *b. Tr.* 10. *Car.* 1. the Caſe of *Longford* Bridge. *Rolls Caſes* 1. *Part. fo.* 368. *& Cro. Rep.* 3. *Part.* the ſame Caſe.

74. If a man erect a Mill for his own particular profit, and cut a new course for the water to come to it, and makes a new Bridge over the same, and the Kings Subjects use to ride over the same as over a common Bridge; such Bridge ought to be repaired by him who hath the Mill, and not by the County, because he erected it for his own benefit, 8 *E.* 2. *B. R.* adjudged for *Bow* Bridge and *Channel* Bridge against the Prior of *Stratford*, *Rolls Cases.* 1. *Part. fo.* 368.

75. Such as are chargeable to repair a Bridge, may enter upon any other mans Land or Soil adjoyning, and lay their Stone, Lime, Timber, or other things necessary there for the repairing and amending thereof, and the owner of the Lands shall have no action therefore; for it is for the common profit; and the party that is chargeable to repair a Bridge, must also maintain the way at each end thereof (though the Soil be to another) and if the ends be broken by the Water-course, he must follow the Water-course, and repair the way, *&c. Crompt.* 186. *b.* 43. *Ass. Dalt. J. P. Ch.* 13. *fo.* 42.

76. It

76. It is provided by the 14 *Car.* 2. *Ch.* 6. That all Bridges ſhall have ſufficient Walls, or Poſts and Rails on each ſide thereof, four foot high at the leaſt, and that the ſame be from time to time ſufficiently kept and repaired. 14 *Car.* 2. *Ch.* 6.

77. The Names of ſome Statutes for particular Bridges follow, 18 *H.* 6. *Ch.* 28. for the making of *Burford* and *Culhamford* Bridge. 18 *El. Ch.* 17. & 27. *El. Ch.* 25. for the maintenance of *Rocheſter* Bridge. 18 *El. Ch.* 20. for Repair of the Bridges within a Mile of *Oxford*, 23 *El. Ch.* 11. for the maintenance of the Bridges over *Toffe* in *Wales*. 39 *El. Ch.* 23. for making and repairing of *Newport* and *Carlion* Bridges over the River *Uſk*. 39 *El. Ch.* 24. for building and maintenance of a Bridge at *Wilton* upon *Wy* near *Roſs* in *Herefordſhire*, 43 *El. Ch.* 16. for erecting and repairing *Edon* and *Presberk* Bridges in *Cumberland*. 3 *Jac. Ch.* 23. for making and repairing *Chepſtow* Bridge. 14 *Car.* 2. *Ch.* 6. for building and repairing *Laycock* and *Rey* Bridges in *Wiltſhire*, and *Stratford* Bridge in *Middleſex*.

By the *Stat.* 22 *Car.* 2. *Ch.* 12. It is enacted, That the Surveyors and Orderers of the work of amendment of the High-ways ſhall be yearly choſen in Chriſtmas-week, according to the *Stat.* 2, & 3 *P.* & *M. Ch.* 8. Which perſons ſo choſen ſhall take upon them that Office, and ſhall appoint ſix days for providing Stones, Gravel, and other Materials, and for working in the High-ways, having reſpect to the ſeaſon of the year and weather, and giving notice publickly ſome convenient time before the ſeveral days. At which days all perſons lyable to the ſaid work ſhall attend and work; And the ſaid Surveyors and Orderers ſhall make return of the Defaulters and every of them within one month, to ſome neighbouring Juſtice of the Peace of the ſame County.

FINIS.

A GUIDE FOR TREASURERS OF THE County Stock, for the Relief of Poor Maimed Souldiers and Mariners.

1. THese Treasurers are certain Officers appointed by the Justices of Peace, to have the charge of the Receipt and Disbursement of money taxed and levyed upon the whole County yearly for the relief of Poor Maimed Souldiers and Mariners; For the Justices of Peace are

are yearly at their Quarter Seſſions, about *Eaſter*, to chooſe or appoint one or two perſons (according to their diſcretions) of the County for the taking and diſtributing of the Monies collected for the purpoſes aforeſaid: And theſe Treaſurers, by the words of the Statute, ought to be Subſidy men of 10 pounds in Lands, or 15 pounds in Goods, (but it ſeems, if they be ſufficient men, this is not ſtood upon) and theſe Officers are to continue in their Office one year, and new ones then to be choſen in their rooms. 43 *El. Ch.* 3. *Wingate's Stat. Tit. Captains.*

2. Now for the raiſing of Money for theſe Treaſurers, the greater part of the Juſtices in their Quarter Seſſions have power to charge every Pariſh within their limits towards a weekly Relief of Maimed Souldiers and Mariners, ſo that no Pariſh pay weekly above 10 pence, nor under two pence; nor any County, which conſiſts of above 50 Pariſhes, pay above ſix pence; one Pariſh with another, and this is by the 43 *El. Ch.* 3. but it is provided further by the 14 *Car.* 2. *Ch.* 9. that the

Juſtices

Juſtices may tax every Pariſh more than the Rates aforeſaid, ſo as it exceed not two ſhillings and ſix pence, nor be under three pence *per* week. And theſe ſums, thus taxed, muſt be aſſeſſed in every Pariſh by the Pariſhioners (or in their Default) by the Conſtables and Churchwardens (or in their Default) by the next Juſtice or Juſtices of the Peace. 43 *El. Ch.* 3.

3. And the Conſtables and Churchwardens have power to levy the Tax in every Pariſh of every perſon refuſing to pay the ſame, by Diſtreſs and Sale of his Goods, rendring the overplus to the owner; and in the Conſtables and Churchwardens Default, the next adjoyning Juſtice may diſtrain for the ſame. 43 *El. Ch.* 3. *Wingate's Stat. Tit. Captain, & Dalt. J. P. Ch.* 53. *fo.* 135.

4. When the Tax is levyed; the Conſtables and Churchwardens are to deliver it quarterly (ten days before every Quarter Seſſions) to the High Conſtable of their Diviſion, who muſt deliver to the Treaſurers of the County at the ſame Quarter Seſſions all the ſame money; and if the Conſtables or Church-

Churchwardens, their Executors, &c. fail in the payment to the High Conſtable within the time aforeſaid, then they are to forfeit 20 ſhillings; and if the High Conſtable fail to pay the Treaſurers every Seſſions, then he forfeits 40 ſhillings; which Forfeitures, as it ſeems, the Treaſurers may levy by Diſtreſs and Sale of the Offenders Goods, without any Warrant, rendring the overplus to the owner: and theſe Forfeitures are to go in Augmentation of the Treaſurers Stock. 43 *El. Ch.* 3.

5. The Maimed Souldier or Mariner which was preſt, ſhall repair (if he be able to Travel) to the Treaſurers of the County where he was preſt; if he were not preſt, then to the Treaſurers of the County where he was born, or where he laſt dwelt by the ſpace of three years, at his Election; but if he be not able to Travel, then to the Treaſurers of the County where he Lands; and he is to bring with him a Certificate under the Hand and Seal of the Chief Commander, or of the Captain under whom he ſerved, containing the particular of his hurts and ſervi-

ces,

ces, which Certificate ſhall alſo be allowed by the Muſter-Maſter, or the Receiver General of the Rolls for the Muſter, under one of their hands. 43 *El. Ch.* 3.

6. Then upon ſuch a Certificate, the Treaſurers aforeſaid may allow the party Relief to maintain him till the next Quarter Seſſions; and then the major part of the Juſtices may allow him a Penſion, which the Treaſurers muſt pay him Quarterly, until it ſhall be revoked or altered by the ſaid Juſtices; and this allowance is not to exceed 10 pounds *per ann.* to a common Souldier, nor 15 pounds to an Officer under a Lieutenant, nor 20 pounds to a Lieutenant. 43 *El. Ch.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

7. Note, where Souldiers and Mariners arrive far from the place where they are to receive Relief, the Treaſurers there ſhall give them Relief, and a Teſtimonial whereby they may paſs from Treaſurer to Treaſurer, until they ſhall come to the place required; and this ſhall be done upon the bare Certificate of the Commander and Captain, although they have not as yet obtain'd any allowance from

from the Muſter-Maſter, or Receiver General of the Muſter Rolls. *Wingate's Stat. Tit. Captains and Souldiers.* 43 *El. Ch.* 3.

8. If any Souldier or Mariner beg, or Counterfeit a Certificate, he ſhall be puniſhed as a common Rogue, and ſhall looſe his Penſion, if he have any. 43 *El. Ch.* 3. *Wingate ubi ſupra.*

9. When out of the County where the party was preſt, a fit Penſion cannot be ſatisfied, it ſhall then be ſupplied by the County where he was born, or where he laſt dwelt by the ſpace of three years. *Wingate ubi ſupra.* 43 *El. Ch.* 3.

10. By the 14 *Car.* 2. *Ch.* 9. It is provided, that every Officer, Souldier, or Mariner maimed, indigent, aged, or diſabled in body for work, in the Service of King *Charles* the Firſt, or of his Majeſty that now is, during the late Wars, or which are ſo impoveriſhed by their ſufferings under any of the late uſurped Powers, as that they are deſtitute of any competent ſubſiſtence or livelyhood, and have continued faithful to their Truſt, and not deſerved the ſame, by taking up Arms againſt his

his late Majeſty, or his Majeſty that now is, or otherwiſe, is to repair to the place where he was laſt ſetled before he took up Arms, (with a Certificate of his Service and hurts received under the hand of his Captain, or other Commiſſionated Officer) and there repair to the two next Juſtices, who upon examination of the truth of ſuch Certificate (upon Oath of the Party and ſuch Witneſs as he ſhall produce) may by Warrant unto the Treaſurers aſſign him Relief unto the next Quarter Seſſions, to be holden for that County or Liberty; at which time a yearly Penſion may be ſetled on him, which muſt not exceed 20 pounds to any one perſon, which Penſion is to be with power of Revocation or Alteration; and in caſe where the Captain or Officer appointed to make ſuch Certificate is dead, the Juſtices upon Requeſt to them made in behalf of the party maimed, aged, indigent or diſabled, as aforeſaid, by perſons of credit, are to give ſuch Relief, as in caſes of Examination as aforeſaid. 14 *Car.* 2. *Ch.* 9.

11. And touching the Widows and Or-

Orphans of ſuch as dyed in the Service aforeſaid, it is provided, That (over and beſide ſuch Relief as they ſhall gain by their labour and work, and what ſhall be allowed by the charity and benevolence of the Pariſh, Town, or Hamlet where they are ſetled) the Treaſurers for the maimed Souldiers for ſuch County ſhall allow ſuch further Relief from time to time, as ſhall be adjudged meet by two next Juſtices of the Peace of ſuch County; and the ſaid Relief is to be paid out of the Surpluſage of ſuch Stock of Maintenance as ſhall remain in the hands of the ſaid Treaſurers after ſuch Penſions and Payment of them made; And of which ſurpluſage and allowance made unto ſuch Widows and Orphans, the ſaid Treaſurers ſhall give account from time to time, and the ſame diſtribute as by the Juſtices ſhall be directed. 14 *Car.* 2. *Ch.* 9.

12. The Treaſurers are to Regiſter all their Receipts and Diſburſements, and muſt enter the Names of the Parties relieved into their Book, and alſo the Certificate, by vertue whereof the

the diſburſements are made; and where they diſallow of a Certificate, they are to ſet down the Reaſons of their Refuſal under the Certificate, or on the back thereof. 43 *Eliz. Ch.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

13. If any Treaſurer wilfully refuſe to give Relief in the caſes aforeſaid, the Juſtices of the Peace in their Seſſions may ſet a Fine upon him, which may be levyed by Diſtreſs and Sale of his Goods. *Wingate ubi ſupra.* 43 *Eliz. Ch.* 3.

14. Theſe Officers at the end of their year, within 10 days after *Eaſter* Seſſions, are to give up a juſt account to the ſucceeding Treaſurers of all their Receipts and Diſburſements within the time of their Office; and then if they have any money in their hands, they are to deliver it to their Succeſſors; and if any ſuch Officer, his Executors, or Adminiſtrators ſhall not give up ſuch Account within the time aforeſaid, or ſhall be otherwiſe negligent in the execution of his Office; The Juſtices at their Seſſions may aſſeſs what fine they pleaſe upon him; ſo that

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it be not under five pounds, but what they please above five pounds upon him, his Executors or Administrators. *Wingate ubi supra*, 43 *El. Ch.* 3.

15. In Corporations the Justices there are to put this Action in execution, and not the Justices of the County; This Act is not to prohibit the City of *London*, to make a Tax if need require, differing from that above limited in this Act, so that no Parish pay above three shillings weekly, nor under 12 pence weekly one Parish with another. 43 *Eliz. Ch.* 3.

FINIS.

A GUIDE FOR TREASURERS OF THE County Stock, for the Relief of Poor Priſoners in the *Kings-Bench* and *Marſhalſea*, and for Hoſpitals and Almſhouſes in their ſeveral Counties.

1. THESE Officers are to be yearly choſen by the Juſtices at their Quarter Seſſions about *Eaſter*, and they muſt be two for

for every County, Riding, *&c.* and by the words of the Statute they ought to be Subſidy men, of 5 pound in Lands, or 10 pounds in Goods at the leaſt, or near that value; and theſe Officers are to continue in their Office but one year, and then others to be choſen, and they are to have the charge of the Receipt and Diſburſements of the money taxed and levyed upon the whole County yearly, for the Relief of the Priſoners in the *Kings Bench* and *Marſhalſey*, and for the Relief of Hoſpitals and Almſhouſes within the ſame County. 43 *Eliz. Ch.* 2.

2. And for this purpoſe the Juſtices of Peace of every County or Corporation, or the major part of them, at *Eaſter* Seſſions yearly, or as often as they ſhall think fit, may rate every Pariſh at a certain ſum to be paid weekly; but ſo as no Pariſh may pay more than ſix pence, nor leſs than a half peny and one Pariſh with another, not above two pence through the whole County or Corporation, which ſum ſo rated, the Conſtables and Churchwardens in every Pariſh, or any of them, (or in their default the next Juſtice

ſtice of Peace) have power to Aſſeſs, and to levy by Diſtreſs and ſale of the Parties Goods refuſing to pay, Rendring the overplus to the owners; and for Default of Diſtreſs, the ſaid Juſtice may commit the Party to Priſon till it be paid. *Wingate's Stat. Tit. Poor. 43 El. 12. Ch. 2. Dalt. J. P. Ch. 53. fo. 135.*

3. And theſe ſums, collected and levyed as aforeſaid, the Churchwardens or Conſtables of every Pariſh are to pay to the High Conſtable of that Diviſion ten days before every Seſſions, in pain that they or their Executors, *&c.* ſhall forfeit ten ſhillings: And the High Conſtable is to pay over the Sums received to the Treaſurers, or one of them, every Quarter Seſſions, in pain that he, his Executors, *&c.* ſhall forfeit 20 ſhillings; and theſe Forfeitures are to be levyed by the Treaſurers by Diſtreſs and Sale of the Offenders Goods, rendring the overplus to the party offending, which Forfeitures are to be imployed by the Treaſurers for the uſes aforeſaid. 43 *Eliz. Ch.* 2. *Wingate's Stat. Tit. Poor.*

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4. And ſuch Sums as the Juſtices ſhall appoint for the *Kings Bench* and *Marſhalſey* (which muſt be 20 ſhillings yearly out of each County to each of them) Theſe Officers muſt pay over in convenient time to the Lord Chief Juſtice of *England*, and Knight Marſhal for the time being, equally to be divided to the uſes aforeſaid, taking their Acquittances for the ſame, and in default of the ſaid Chief Juſtice, the next antienteſt Juſtice of the *Kings Bench*. *Wingate ubi ſupra* 43, *El. Ch.* 2.

5. They are to pay yearly alſo, by a Quarterly Payment, ſuch Sums of Money as ſhall be ſet down by the Juſtices of Peace at their Quarter Seſſions, unto the Maſters and Governours of the Houſes of Correction, the which if they do refuſe or neglect to do, the ſame Maſters or Governours (without any Warrant) may levy the ſame of the Goods of the ſaid Treaſurers by Diſtreſs and Sale, rendring them the overplus. 7 *Jac. Ch.* 4.

6. And the Surpluſage of the money, by the Treaſurers received, they muſt diſtribute and beſtow for the Relief of the

the poor Hoſpitals of the ſame County, and for the Relief of thoſe that have ſuſtained loſſes by Fire, Water, the Sea, or other Caſualties, according to the diſcretion of the Juſtices of the Peace of the ſame County., *Wingate's Stat. Tit. Poor.* 43 *Eliz. Ch.* 2.

7. Theſe Officers at the end of their year at *Eaſter* Seſſions, are to give an account to the ſucceeding Treaſurers, of all their Receipts and Diſburſements in the time of their Office; And then alſo, if they have any money in their hands, they are to deliver up the ſame to the ſucceeding Treaſurers. And if any Treaſurer, ſo elected as before, ſhall wilfully refuſe to take upon him the ſaid Office of Treaſureſhip, or to diſtribute and give Relief, or to account according to that order the Juſtices ſhall ſet down, the Juſtices may Fine them at their Seſſions, which Fine muſt not be under three pounds. 43 *Eliz. Ch.* 2.

FINIS.

FINIS.

A GUIDE FOR MASTERS OF THE

House of Correction, and Governours of the Corporations, or Work-Houses in *London*, *Westminster*, &c.

1. THE Governor or Master of the House of Correction is an Officer appointed by the Justices of Peace at their Quarter Sessions, to have the Oversight and Government of the House of Correction within their County or Riding, of whom the Justices are to take sufficient Security for the continuance and

performance of the Service belonging to his Office; and the Justices are to set down what allowance they shall have for their pains, (which may be charged upon the County) and for the Relief of such as shall happen to be weak and sick in their custody and for the Stock to set on work such persons as shall be committed thither; and they may set down their orders concerning the same according to their discretions; and the money allowed to these Officers by the Justices as aforesaid, is to be paid Quarterly before-hand by the Treasurers of the County for the Relief of the Prisoners in the *Kings Bench* and *Marshalsey*; and if the Treasurers refuse or neglect to pay it, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid, upon the Treasurers Accounts by Distress and Sale of their Goods, rendring back the overplus of the money. 39 *El. Ch.* 4. 7 *Jac. Ch.* 4.

2. Now the Office and Duty of this Officer consists in these things following, *viz.* To look well to the same House, and the backside thereof, and to all the Implements and Goods he doth find

find there, and to look to all such lewd persons as he finds there at his entrance, and to receive all such Rogues, Vagabonds, and idle or disorderly persons, as by any of the Justices of Peace shall be sent thither. *Co. 2. Part. Inst. fo. 731.*

2. He is also to keep safely all such as are committed to his custody, and not to suffer them to wander abroad about the Country; or to escape away without order of Justices. *7 Jac. Ch. 4. Co. 2. Part. Inst. fo. 734.*

4. He is also to see and take care, that amongst the persons committed to his charge, if there be any sick, or otherwise Impotent, that stands in need of Relief, that he do relieve them, according to their necessity. *7 Jac. Ch. 4. Co. 2. Part. Inst. fo. 732.*

5. And for the rest that are able to work, he is to see and take care that from time to time, as long as they remain there, they be set to work and labour; for during that time, they must in no sort be chargeable to the Countrey for any allowance, either at their coming in, or going forth, or abode there, for they are to have such and so much allowance only as they shall de-

ſerve by their own labour and work: and if they will not work and perform their Task, he is to puniſh them as he ſees cauſe, with putting on Fetters or Gives upon them, and by moderate whipping of them. 7 *Jac. Ch.* 4. *Co.* 2. *Part. Inſt. fo.* 731.

6. And laſtly, at every Quarter Seſſions the Maſter is to give an account of all ſuch perſons as have been committed to his cuſtody; And if he offend in any of theſe particulars before mentioned, or in any other Duty incident to his Office, the Juſtices of Peace may impoſe ſuch Fines and Penalties upon him for the ſame, as they ſhall think fit; and theſe Fines muſt be paid unto, and muſt be accounted for by the Treaſurer of the County Stock for the *King's Bench* and *Marſhalſey*, &c. 7 *Jac. Ch.* 4. *Co.* 2. *Inſt. fo.* 734.

7. Now touching the Corporations and Work-Houſes in *London* and *Weſtminſter*, and within the Burrough Towns and places of the County of *Middleſex* and *Surrey* within the weekly Bills of Mortality, and their Officers; theſe things are to be obſerved following: Firſt it is ordained, that there ſhall be

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one or more Corporation or Corporations, Work-house or Work-houses within the Cities of *London* and *Westminster*, and the Burroughs and places within the Counties of *Middlesex* and *Surrey*, lying within the Weekly Bills of Mortality, consisting of a President, Deputy President, and Treasurer; and the Lord Mayor to be President of the Corporation, Work-house or Work-houses within the City of *London*, and the Aldermen and 52 other Citizens to be chosen by the Common Council to be Assistants; which President and Assistants, or the major part of them, are to choose a Deputy President and Treasurer, and all other necessary Officers to execute the powers appointed by the Act; and a President, Deputy President, Treasurer and Assistants are to be appointed by the Lord Chancellour or Lord Keeper of the Great Seal for the City of *Westminster*, and the Liberties thereof, for the Corporation or Corporations, Work-house or Work-houses within the same; and for the said places within the Weekly Bills of Mortality in the Counties of *Middlesex* and *Surrey*, a President Deputy and

Treasurers are to be chosen by the major part of the Justices of the said Counties at their Quarter Sessions, of the most able Inhabitants and Freeholders of the said Counties of *Middlesex* and *Surrey*, for the Corporation or Corporations, Work or Workhouses of the said Counties. 14 *Car.* 2. *ch.* 12.

8. And upon Vacancy, Death, or otherwise of any of the Presidents, Deputy Presidents, Treasurers or Assistants in the City of *Westminster* and places aforesaid, *in Middlesex* and *Surrey*, the major part of the Justices at their General Quarter Sessions have power to elect others in their rooms; and at every Quarter Sessions the said Justices are to take an account in writing of all the Receipts, Charges and Disbursements of the Officers and Treasurer of such Corporation or Corporations, Work-house or Work-houses, how; and how many poor people have been imployed and set to work in the year last past, and what Stock there was and is remaining. 14 *Car.* 2. *Ch.* 12.

9. The President, Deputy President, Treasurers and Assistants aforesaid shall be Bodies Politick and Corporate for

for ever, and shall have a perpetual Succession, and may sue, plead, and be impleaded by the Name of a President and Governours of the Poor for the respective places aforesaid, in all Courts and places of Judicature within the Kingdom of *England* and *Wales*, &c. and may without Licence in Mortmain, Purchase, or receive any lands, *&c.* not exceeding the yearly value of 3000 *l. per annum*, of the Gift, Alienation or Devise of any person or persons; and every of the Corporations may keep Courts for the ends and purposes in the Act expressed, at such time and place as shall be appointed by the said President, his Deputy or the Treasurer; who are upon the desire of any four of the said Corporation, at any time to cause a Court to be warned accordingly, and may from time to time make Common Seals for the use of the Respective Corporations. 14 *Car.* 2. *Ch.* 12.

10. The Respective Presidents and Governours of the said Corporations, or any two of them, or any person authorized and appointed by them, or any

two of them, may from time to time apprehend, or cauſe to be apprehended any Rogues, Vagrants, Sturdy Beggars, or idle or diſorderly perſons, within the ſaid Cities and Liberties, Places, Diviſions, and Precincts, and cauſe them to be kept and ſet to work in the ſeveral and reſpect Corporations or Workhouſes. *14 Car. 2. Ch. 12.*

11. If the Preſident and Governours of any of the ſaid Corporations ſhall certifie under their Seals, at any time their want of money for a Stock, and what Sum they think fit for the ſame, to the Common Council of the City of *London*, and the Burgeſſes and Juſtices of Peace in their Quarter Seſſions for *Weſtminſter*, or to the Juſtices of the reſpective Counties for *Middleſex* and *Surrey* in their Quarter Seſſions, then they are from time to time to ſet down and aſcertain ſuch competent ſums of money for the purpoſes aforeſaid, not exceeding one years Rate uſually ſet upon any perſon for, and towards the Relief of the Poor; and the ſame to proportion out of the ſeveral Wards, Precincts, Counties, Diviſions, Hundreds, and Pariſhes, as they ſhall think fit,

fit, and according to the said Proportions for the said several Wards, Precincts and Parishes, to Tax and Rate the several Inhabitants, within the said respective Wards, Precincts and Parishes; in which Tax if any shall find himself aggrieved, he or they are to appeal to the Justices of the Peace at their next open Sessions, where the business is to be finally ended. 14 *Car.* 2. *Ch.* 12.

12. And any Alderman of *London*, or his Deputy, Burgesses and Justices of Peace of the Counties of *Middlesex* and *Surrey*, by Warrant under their Hands and Seals, may Authorize the Churchwardens, or Overseers of the Poor within the Places and Parishes aforesaid, to receive and demand of every person and persons such sums of money as shall be assessed upon them, by vertue of the Taxations and Constitutions aforesaid; and for default of payment within ten days after demand or notice left at the dwelling house or lodging of every person assessed, then to levy the same by Distress and Sale of his Goods, rendring him the overplus. 14 *Car.* 2. *Ch.* 12.

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13. The respective President and Governours, or seven of them may make and constitute Orders and By-laws for the better relieving, regulating and setting the Poor to work, apprehending and punishing of Rogues, and Vagabonds, within the Cities, Liberties, and places aforesaid, provided the said By-Laws be presented to the Justices of Peace at their Quarter Sessions, and confirmed by the order of the said Court; And the Presidents and Governours, or four of them of any of the said Corporations or Work-houses, may choose and entertain all such Officers as shall be needful to be imployed in and about the premisses, and remove them as they see cause, and make such reasonable allowances unto them out of the Stock belonging to the Work-house, as they shall think fit. 14 *Car.* 2. *Ch.* 12.

14. This Act is not to prejudice any the Franchises, Rights, Liberties, or Priviledges heretofore granted by any Kings or Queens of this Realm, to the Dean and Chapter of the Collegiate Church of St. *Peters* in *Westminster*. 14 *Car.* 2. *Ch.* 12.

FINIS.

A GUIDE FOR BAYLIFFS OF MANNOURS.

1. THE Bayliff of a Mannor is an Officer chosen by the Lord of the Mannor, and this Officer by the ancient *Saxons* was called a *Reeve*, for the name Bayliff was not known among them; but came in with the *Normans* it seems. *Termes de Ley, verb.* Bayliff.

2. This Officer is to Summon and call

call the Lords Courts, and to collect his Rents, Fines, Herriots, and Amerciaments, and other profits hapning within the Mannor as they grow due; and he may ſeize or diſtrain for them *ex Officio*, where ſeizure and diſtreſs is juſtifiable without any ſpecial command of the Lord, he may alſo pay Quit-Rents. *Termes de Ley, ubi ſupra.*

3. It is ſaid he may alſo order his Lords Husbandry, diſtrain Beaſts, damage Feaſant, repair any Houſes, Hays, or Pales; and for that purpoſe cut down Timber or Trees: but it is not ſafe for him to build a new Houſe, or ſet up an old Houſe that is faln, or to make any new Additions or Alterations as to Tyle the Houſe, which before was Thatched, or pale it where before it was hedged, or the like, without a ſpecial command from his Lord ſo to do; for otherwiſe he will be a Treſpaſſer to the Lord.

4. It is ſaid alſo, that he may take any Cattel for his Lord to compoſt his ground as in Aguſtment, and cut down Underwoods that have been uſed to be cut, and he is to over-ſee and order the Labour of other Labourers and Servants

Servants under him about his Lords work.

5. And laſtly, Theſe Officers are to give Account to their Lords of all their Receipts and Diſburſements, and pay into him the money remaining in their hands, being required thereunto: and if they refuſe, the Lord may compel them thereunto by an Action of Account given to him for his Relief in ſuch caſe. *Bro. Bayliff.* 31. 8 E. 4. *fo.* 13.

F I N I S.

A GUIDE FOR GOVERNOURS OF FAIRS.

1. THE Owner, Governour, Ruler, Farmer, Steward, Bayliff, or Chief Keeper of every Fair and Market overt, are to appoint and limit out a certain and open place, within the Town, Place, Field, or Circuit, where Horſes, Mares, Geldings, and Colts muſt be ſold, and they

they must appoint one sufficient person or more to take Toll, and keep the same place from ten of the clock before Noon until Sun-set of every day of the aforesaid Fair or Market, upon pain to lose for every default 40 shillings. 2, 3 *P. M. Ch.* 7. *Co.* 2. *Part. Inst. fo.* 715.

2. And the Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horse, Mare, &c. at the place and times aforesaid. And they are to have before them at the taking of the said Toll, the Parties to the Bargain, Exchange, Gift, Contract, or putting away of every such Horse, Mare, &c. and also the same Horse, Mare, &c. so sold, exchanged, or put away, and then the Toll-gatherer must write in his Book the Names, Sirnames, and dwelling places of all the said parties, and the colour with one special mark at the least of the said Horse, Mare, &c. on pain to forfeit for every default 40 shillings. 2, 3 *P. M. Ch.* 7. *Co.* 2. *Part. Inst. fo.* 715.

3. And the said Toll-gatherer is within one day after the Fair, &c. to bring his

his Book to the Owner, Governour or Ruler, &c. of the Fair, or Market, who is then to cauſe a note to be made out of the ſame; of the true number of all the Horſes, Mares, &c. Sold at the ſaid Fair or Market, to which note he muſt ſet his hand or mark, on pain of 40 ſhillings: And if the Toll-gatherer neglect to bring the Book as aforeſaid, he alſo forfeits 40 ſhillings. 2, 3 *P. M. Ch.* 7. *Co.* 2. *Part. Inſt. fo.* 715.

4. Note, That where no Toll is due, the Book-keepers Fee for entring every Contract, is one peny and no more. 2, 3 *P. M. Ch.* 7. *Co.* 2. *Part. Inſt. fo.* 716.

5. Now ſince the making of this *Stat.* 2, 3 *P. & M.* It is further provided by the 31 *Eliz.* That every Seller or Exchanger of any Horſe, Mare, &c. in a Fair or Market, which is unknown to the Toll-taker or Book-keeper, muſt procure one credible perſon that is well known to the Toll-keeper, or Book-keeper, who is to vouch and teſtifie his knowledge of the Seller, and the Toll-taker or Book-keeper is to enter both the Names and Sir-

Sirnames, Myſteries and Places of dwelling of the Seller and Voucher into his Book, with the colour, mark, and price of the Horſe, Mare, &c. ſo ſold or exchanged; and he is to give the Buyer, if he require it, a note in writing out of his Book, concerning the Contract ſubſcribed with his hand, for which he is to have two pence. 31 *El. Ch.* 12. *Co.* 2. *Part. Inſt. fo.* 717, & 718.

6. Every Toll-taker or Book-keeper that Suffers a Sale to paſs without a Voucher, unleſs he know the party of his own knowledg as aforeſaid, and every perſon making falſe Teſtimony or Avouchment in the behalf aforeſaid, and every Seller unknown to the Toll-taker, not bringing a Voucher, and cauſing the ſame to be entered as aforeſaid, forfeits five pounds, one moiety thereof to the King, and the other to the Proſecutor; and alſo the ſale of ſuch Horſe, Mare, &c. to be void. 31 *El. Ch.* 12. *Co.* 2. *Part. Inſt. fo.* 718.

7. And note, That though an Horſe, Mare, &c. be at the ſale uſed in all the points aforeſaid, with Voucher, &c. yet the right owner, his Executors or Adminiſtrators, may redeem a ſtoln Horſe,

Horſe, if they claim him within ſix months after the ſtealing, at the Pariſh or Corporations where they ſhall find him, and make proof within 40 days after by two ſufficient Witneſſes before the next Juſtice of Peace of the County, or before the Head Officer in a Corporation, that the Horſe was theirs, and repay to the Buyer ſuch price for the Horſe, as the ſame Buyer ſhall upon his own Oath before ſuch Juſtice or Officer teſtifie he paid for him. 31 *El. Ch.* 12. *Wingate's Stat. Tit. Fairs and Markets. Co.* 2. *Part. Inſt. fo.* 718.

8. And if a ſtoln Horſe be not ſold in Fair or Market, according to the Rules aforeſaid, then ſuch ſale does not alter the property of the right Owner, but he may Seize or Replevy him whereſoever he finds him. 31 *El. Ch.* 12. *Wingate's ubi ſupra. Co.* 2. *Part. Inſt. fo.* 718.

By the *Stat.* 22 *Car.* 2. *cap.* 8. There ſhall be no Buſhel but the *Wincheſter* Buſhel, containing eight gallons, and none ſhall ſell by other meaſure.

If the Clerk of the Market of the Kings-houſe, or others authorized to mark

mark or seal Measures, being required shall neglect or refuse to seal or mark any Bushel, Half Bushel, or Peck duly gauged, he forfeits 5 *l.* for the first offence, and for every other offence 10 *l.* Or if the Kings Clerk of the Market of his House take more than his Fees; or if any other take above one peny for sealing a Bushel, one half peny for the Half Bushel or Peck, or more than one Farthing for any lesser Measure, he incurs the Penalties in the Statute 17 *Car.* 1.

That at the charge of such persons who have the Toll, or profit of the Market where no Toll is taken, there shall be before 29. *Sept.* 1670. one Measure of Brass provided and chained in the Market place, upon pain to forfeit 5 *l.*

FINIS.